No. 387

JOINT APPENDIX

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IN THE

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13,819

INTERNATIONAL ASSOCIATION OF MACHINISTS, et al,
Appellants,

v.

AL FRIEDMAN, *Appellee.*

On Appeal From Final Judgment and Decree of the United States District Court for the District of Columbia

United States Court of Appeals
For the
District of Columbia Circuit
FILED JUN 5 1957
Joseph W. Stewart
CLERK

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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On Appeal From Final Judgment and Decree of the United States District Court for the District of Columbia

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JOINT APPENDIX

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279 **Civil Docket**

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Date	Proceedings
1952	Deposit for cost by
Oct. 7	Complaint, appearance Exhibit "A" filed
Oct. 7	Summons, copies (7) of Complaint issued All Serv. 10-10-52
Oct. 7	Motion of Plif. for Temporary Restraining Order, and Preliminary Injunction, P&A; Serv. all 10-10-52
Oct. 7	Let motion of plif. for temporary restraining order and preliminary injunction be set for hearing Oct. 13, 1952. filed (Fiat) Youngdahl, J. (N)
Oct. 23	Order staying preliminary injunction & all other proceedings until final hearing of cause Youngdahl, J. (N)
Oct. 31	Motion of all defts. to dismiss; Affidavit; P&A; c/s 10-31-52; App. of Edward J. Hickey, Jr. & William G. Mahoney, 620 Tower Bldg. M.C. 10-31-52. filed
Nov. 3	Official transcript of proceedings of reporter 10-25-52 filed
Nov. 6	P&A of pltfs in opposition to motion to dismiss, affidavit. filed
1953	
Jan. 21	Memorandum to Clerk: (signed 1-19-53); McGuire, J. (N)
Feb. 16	Official transcript: MacReynolds 12-4-42, pp. 1-49. filed
Apr. 24	Memorandum to the Clerk; Exhibits A, B, C, D, attached per. instructions of Judge McGuire. McGuire, J.

June 2—Stipulation of election; ser. ack. 6-1-53 filed
Oct. 15—Order referring deft's motion to dismiss to motions Judge McGuire, J. (N)
Nov. 10—Stipulation continuing hearing before motions judge until such time as either party requests matter be placed back on calendar. filed
Dec. 23—Joint request for continuance filed

1954

Jan. 4—Notice of pltf. of examination; Ser. Ack. 1-4-54 filed
Feb. 10—Deposition of pltf. 1-21-54 published & filed
Mar. 2—Order granting deft.'s motion to dismiss and vacating the temporary injunction heretofore entered (N) Curran, J.
Mar. 19—Official transcript of reporter 2-17-54, pp. 1-33. filed
Mar. 29—Notice of appeal of pltfs. from order 3-2-54. (copy to Edward J. Hickey, Jr.) filed
Mar. 29—Deposit by Seymour Krieger, $5.00 filed
280 Mar. 29—Order granting pltf. leave to secure payment of costs on appeal by delivering to Clerk a check for $250.00 in lieu of a bond. McGuire, J. (N)
Mar. 29—Deposit of $250.00 check in lieu of bond by pltf. filed
Apr. 5—Designation of content of record on appeal; c/s 4-5-54. filed
Apr. 14—Addition to designation of contents of record on appeal; c/s 4-14-54. filed
Apr. 15—Deft's designation of additional contents of record on appeal; c/s 4-15-54. filed
Apr. 28—Motion of pltf. for extension of time for filing record on appeal & docketing appeal. (consent) filed
Apr. 28—Order extending time within which to file record on appeal to 5-22-54 McGuire, J. (N)
May 19—Order authorizing transmission of original exhibits to U.S.C.A. Curran, J. (N)

May 21—Record on appeal delivered: deposit b Seymour Krieger. $19.90 filed

1955

Oct. 28—Mandate U.S. Ct. of Appeals reversing order & remanding to U.S.D.C. with costs vs. appellees ($347.35) dated 2-17-55, opinion attached.

Nov. 3—Order on mandate reinstating preliminary injunction and defts are directed to file their answer within 20 days after which cause shall be placed on trial calendar for hearing. c/s 11-3-55 (N) Curran, J.

Nov. 8—Appearance of James L. Highsaw, Jr. for defts. filed

Nov. 10—Motions of defts to dissolve preliminary injunction, Affi, P&A, c/m 11-10-55, M.C. 11-10-55 filed

Nov. 16—Stipulation extending time to answer motion to dissolve preliminary injunction to 11-25-55. filed

Nov. 23—Answer of defts to amended complt. c/m 11-23-55 filed

Nov. 23—Calendared (N)

Nov. 25—Pltf's P&A in opposition to motion to dissolve preliminary injunction affidavit, c/m 11-25-55. filed

Nov. 28—Motion of deft. to dissolve preliminary injunction argued & submitted, Rep. Doran Tamm, J.

Nov. 30—Memorandum opinion denying deft's motion to dissolve preliminary injunction (N) Tamm, J. 246

281 Dec. 5—Order denying deft's motion to dissolve the preliminary injunction (N) Tamm, J.

1956

May 18—Motion of defts for summary judgt; affidavit, exhibit A, B, C, D & E c/m 5-18-56, M.C. 5-18-56 filed

May 28—Stipulation for extension of time for plaintiff to respond to Motion for Summary Judgment to June 7, 1956 filed

June 7—Stipulation extending time for plaintiff to answer motion for summary judgment to August 24, 1956 filed

July 26—Stipulation extending time to file pleadings for summary judgment to 9-10-56. filed

Aug. 13—Motion of plaintiff for summary judgment; affidavits (2); P&A; filed

Sept. 10—Reply of defts. to pltff's counter-motion for summary judgment, e/m 9-10-56 filed

Oct. 17—Cross-motions for summary judgment argued & submitted. (Rep. David Spatzer). Morris, J. (N)

Nov. 5—Original exhibits as part of record on appeal returned from USCA. filed

1957

Jan. 7—Memorandum opinion. Morris, J. (N)

Feb. 7—Order granting Pltff's motion for summary judgment without prejudice to Defts. to prosecute further appellate proceedings, with costs, Morris, J. (N)

Mar. 8—Notice of appeal of Deft. from order of 2-7-57 copy to S. Krieger, Deposit by Highsaw $5.00 filed

Mar. 8—Cost bond on appeal in sum of $250.00 with Fidelity & Deposit Co. of Md. approved & filed

Mar. 12—Defendant's designation of record on appeal, e/m 3-12-57, filed

Mar. 22—Designation of Record on appeal of Pltff. e/mailing filed

Mar. 25—Motion of Pltff. for refund of money posted in lieu of bond on appeal, e/m 3-25-57 filed

1 Filed October 7, 1952

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

No. 4528-52

AL FRIEDMAN, 5841 De Giverville, St. Louis, Mo., *Plaintiff*.

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS: A. J. HAYES, individually and as International President of the International Association of Machinists and Member of its Executive Council: ERIC PETERSON, individually and as General Secretary-Treasurer of the International Association of Machinists and Member of its Executive Council: and ELMER E. WALKER, individually and as General Vice President of the Executive Council of the International Association of Machinists and Member of its Executive Council. (Address of all defendants is 9th St. and Mt. Vernon Place, N. W., Washington, D. C., *Defendants*.

Complaint for Injunction

1. Plaintiff is a resident of the City of St. Louis, Missouri, and is a member of the Tool and Diemakers Lodge No. 688 (hereinafter referred to as Lodge 688) of defendant International Association of Machinists. The amount in controversy herein exceeds the sum of $3,000.00 exclusive of interest and costs.

2. Defendant International Association of Machinists, hereinafter referred to as the "Machinists," is a labor organization, the exact legal status of which is unknown to plaintiff. Defendant A. J. Hayes is the International President of the Machinists; defendant Eric Peterson is the General Secretary-Treasurer of the Machinsist; defendant Elmer E. Walker is a General Vice-President of the Machinists; defendants Hayes, Peterson and Walker are members of the Executive Council of the Machinists;

defendants Hayes, Peterson and Walker as officers of the Machinists and members of its Executive Council sufficiently represent the Machinists and members thereof to bring them before this Court to answer the charges herein. This action is brought against defendants Hayes, Peterson and Walker in their individual capacities as well as officers of the Machinists and Members of its Executive Council.

2 3. On March 14, 1952, Lloyd Weber, business agent for District 9 of the Machinists, filed charges against plaintiff, pursuant to Section 1, Article K, of the Constitution of the Machinists, copy of which is attached hereto, marked Exhibit "A", and made a part hereof. The charge reads as follows:

> "Lloyd Weber, Card No. 464197, Member of Lodge 787, District Number 9, hereby prefers charges against Brother Al Friedman, Card No. H-93065, Member of Lodge 688, for violation of Article XXV, Section 2 of the Constitution of Grand Lodge of I. A. of M. Specifically I charge this Brother with advocating, encouraging and supporting Communism, and also with being a member of the Communist Party."

4. March 24, 1952, a trial was held before a Trial Committee appointed by the president of Tool and Diemakers Lodge 688, as provided in the Constitution of the Machinists. March 28, 1952, at a regular meeting of Lodge 688, the Trial Committee duly submitted its report to the membership as follows:

> "We the members of the trial committee of the case of Lloyd Weber versus Al Friedman have after long and serious deliberation and much discussion of the evidence presented find the defendant not guilty as charged due to lack of sufficient and positive evidence."

Thereupon the report of the Trial Committee was submitted to a vote of the members of Lodge 688 who voted: Not guilty, 95; guilty, 26.

5. Thereafter, on April 10, 1952, Lloyd Weber filed an appeal with defendant Hayes. Defendant Hayes considered the appeal of Lloyd Weber and, on May 5, 1952, in violation of the Constitution of the Machinists, set aside the decision of Lodge 688, found plaintiff guilty of an offense different from that charged, and ordered his expulsion.

6. May 9, 1952, plaintiff notified defendant Peterson that he was appealing the action of defendant Hayes to the Executive Council of the Machinists. The expulsion order of defendant Hayes was stayed pending plaintiff's appeal to the Executive Council and plaintiff continued to enjoy all the rights and privileges of membership in the Machinists and in Lodge 688.

3 7. July 22, 1952, defendant Peterson wrote plaintiff advising him that the Executive Council had voted to sustain the decision of defendant Hayes ; nd that plaintiff was expelled from the Machinists effective July 22, 1952.

8. Thereafter plaintiff appealed to the Grand Lodge Convention of the Machinists which on September 16, 1952, voted to adopt the following report:

> "A review of all the evidence before us: the transcript; the Decision of May 5, 1952 of the International President; and the subsequent action of the Executive Council; compels the conclusion that there is ample and sufficient evidence on the record as a whole to support the finding of a violation of Article XXV, Section 2, and warrant the verdict of Guilty and penalty of expulsion. We find and conclude that Al Friedman, at all times material herein, was a member of the Communist Party; that he advocated Com-

munism; that he encouraged Communism; and that he gave support to Communism. As a result we conclude he merits the penalty of expulsion, and we recommend that the delegates in Convention assembled so find and conclude. To the extent, however, that the findings and conclusions of both the International President and the Executive Council may be inconsistent or in conflict with our findings, conclusions and recommendations, they are so modified."

9. The permitting of Lloyd Weber to take an appeal from the decision of Lodge 688 and in setting aside the finding of "not guilty" and substituting a finding of "guilty" and ordering plaintiff's expulsion from the Machinists is contrary to the Constitution of the Machinists, and violates fundamental principles of democratic procedure.

10. The decisions of defendant Hayes and of the Executive Council are illegal in that they (a) find plaintiff guilty of an offense different from that with which he was charged; and (b) order plaintiff's expulsion when under the Constitution expulsion can be ordered only by a two-thirds vote of the local Lodge.

11. The decisions of defendant Hayes and of the Executive Council are illegal in that they are not supported by substantial evidence. It was not until April 1, 1949, that the Constitution of the Machinists provided that it was an offense for a member to advocate, encourage, or support Communism. There is not a scintilla of evidence that plaintiff advocated, encouraged or supported Communism after April 1, 1949.

12. The procedure at the said Grand Lodge Convention was controlled completely by defendants. Plaintiff's request to appear before said Convention was refused; and said Convention was misinformed by the defendants and their agents as to the facts involved and as to plaintiff's position thereon.

13. Plaintiff's membership in the Machinists and in Lodge 688 is a valuable property right, which property right exceeds the sum of $3,000.00 in value. As a tool and diemaker, plaintiff belongs to a highly skilled trade and one that is almost completely organized and controlled by the Machinists. As a member of the Machinists, plaintiff's family is entitled to valuable death benefits in the event of plaintiff's death. As a member of Lodge 688, plaintiff is entitled to valuable strike benefits in the event of a strike at his place of work. Plaintiff is at present employed as a machinist by Anheuser-Busch, Inc., which has a contract with the Machinists requiring all machinists to be members of the Machinists' organization. This contract is in full force and effect and confers valuable rights on plaintiff. If the expulsion order is allowed to stand, then plaintiff will lose his present job, will be unable to obtain employment in his trade, will lose his right to strike benefits and the benefits of the contract between the Machinists and Anheuser-Busch, Inc., and his family will lose the right to death benefits. Plaintiff has no adequate remedy at law to prevent the carrying out of the order of expulsion.

14. Wherefore, plaintiff prays:

(1) that this Court issue a temporary restraining order enjoining and restraining defendants and each of them, their agents, servants, officers, members and employees from taking any step to carry out such expulsion order; and that defendants be ordered to reinstate plaintiff as a member in good standing of the Machinists and of Lodge 688;

(2) that this Court issue its order to defendants to show cause, if any they have, why a temporary injunction shall not be granted enjoining and restraining defendants and each of them, their agents, servants, officers, members and employees, from taking any step to carry out the order finding plaintiff "guilty" and ordering

his expulsion from the Machinists; and that defendants be ordered to reinstate plaintiff as a member in good standing of the Machinists and of Lodge 688;

(3) that on a full hearing of this matter on its merits, this Court perpetually enjoin defendants and each of them, their agents, servants, officers, members and employees, from taking any step to carry out the order finding plaintiff "guilty" and ordering his expulsion from the Machinists; and that defendants be ordered to reinstate plaintiff as a member in good standing of the Machinists and of Lodge 688; and

(4) for such other and further relief as to the Court may seem proper.

SMITH, HARRIS & HEYKE
By /s/ VICTOR B. HARRIS
Victor B. Harris
411 North 7th Street
St. Louis 1, Missouri
Garfield 0882

KRIEGER & JORGENSEN
By /s/ SEYMOUR KRIEGER
777 14th Street, N. W.
Washington 5, D. C.
Executive 1365

Attorneys for Plaintiff

7-A Pertinent Excerpts from the Constitution of the Grand Lodge, District and Local Lodges, Councils and Conferences of the International Association of Machinists, as Adopted December 1948, Effective April 1, 1949

[NOTE: The entire Constitution is attached to the original Complaint, Exhibit "A", page 7A of the record.]

ARTICLE I

GRAND LODGE—STRUCTURE AND POWERS

Name and Location

Section 1. This organization shall be known by the title and name of "THE GRAND LODGE OF THE INTERNATIONAL ASSOCIATION OF MACHINISTS," and its principal office and headquarters shall be permanently located in the city of Washington, D. C.

Membership and Jurisdiction

Sec. 2. The Grand Lodge of the International Association of Machinists shall consist of an Executive Council and the representatives of local lodges who are duly elected, qualified and seated as delegates in the quadrennial and special conventions provided for in Article II of this Constitution. It shall have power to grant charters for the purpose of organizing, supervising, controlling, and generally directing district and local lodges in any State, territory, or dependency of the United States of America and the Dominion of Canada.

Government

Sec. 3. The government and superintendence of all district and local lodges shall be vested in this Grand Lodge as the supreme head of all such lodges under its jurisdiction. To it shall belong the authority to determine the customs and usages in regard to all matters relating to the craft.

Government Between Conventions

Sec. 4. Between conventions all Executive and Judicial Powers of the Grand Lodge shall be vested in the Executive Council, which shall be composed of the International President, the General Secretary-Treasurer, and nine (9) General Vice Presidents.

Eligibility and Citizenship

Sec. 5. All Grand Lodge Officers, District and Local Lodge Officers, the Editor of the Machinists' Monthly Journal, Editors of District and Local Lodge publications and Delegates must be citizens of a country included in the territorial jurisdiction of the International Association of Machinists. Any individual who advocates or encourages Communism, Fascism, Nazism, or any other totalitarian philosophy, or who, by other actions, gives support to these "philosophies" or "isms" is not eligible to hold any office in the International Association of Machinists.

Article II

Grand Lodge Conventions

Method of Calling Conventions

Section 1. During the month of September in the year 1952, and every four years thereafter, a Grand Lodge Convention of the Association shall be held in a city to be selected by the Executive Council. Notice of such convention shall be issued to all local lodges by the General Secretary-Treasurer not later than the 1st of May in each convention year. In case of an emergency the Executive Council may, upon its own initiative, or after having received the endorsement under seal of at least twenty (20) per cent of all local lodges, not more than fifteen (15) of which are located in any one state, province or territory, submit a call for a special convention, and thereupon the General Secretary-Treasurer shall prepare a ballot and submit the same through the referendum calling for a

special convention of the Grand Lodge to convene at such date as seems best to meet the emergency. In the event that a majority of those voting, vote in favor of holding a special convention, the Executive Council shall, as soon as practicable thereafter, select the city in which said special convention shall be held.

* * * * *

Committees

Sec. 9. The International President shall appoint a Committee on Rules for each convention of the Grand Lodge. All committees necessary for conducting the business of the convention, not otherwise provided for, may be appointed by the International President and Executive Council, subject to the approval of the convention.

* * * * *

ARTICLE IV

EXECUTIVE COUNCIL

Membership and Meetings

Section 1. The Executive Council shall consist of the International President, the General Secretary Treasurer and the General Vice Presidents. The International President shall be the Chairman and the General Secretary-Treasurer shall be the Secretary of the Executive Council. Meetings shall be called by the Chairman from time to time as the affairs of the Association require consideration by the Council, and meetings must be called by him upon request from a majority of the officers composing the Council.

Powers

Sec. 2. Between conventions all Executive and Judicial powers of the Grand Lodge shall be exercised by the Executive Council, sessions of which shall have the same au-

thority to initiate legislation as has a delegate convention of the Association, and which shall have the power to require reports from any officer or officers of the Grand Lodge or any district or local lodge, or to remove any such officer or officers for justifiable cause.

* * * * *

Article V

International President

Duties

Section 1. The International President shall preside at all meetings of the Grand Lodge. He shall serve as chairman and as a member of the Executive Council. He shall preserve order, and in all cases where the vote is equally divided in a convention or a meeting of the Executive Council he shall cast the deciding vote. He shall enforce the laws of the International Association of Machinists; decide all questions of order and usage and all constitutional questions, subject, howevr, to an appeal as provided in Section 6, Article XXV of this Constitution.

* * * * *

Article VI

General Secretary-Treasurer

Duties

Section 1. The General Secretary-Treasurer shall be the secretary and keep correct records of all meetings of the Executive Council and of all conventions of the Grand Lodge of the International Association of Machinists. He shall cause the proceedings of all meetings of the Executive Council to be printed in pamphlet form and mail a copy thereof to each local lodge within fifteen days after the adjournment of such meetings. He shall conduct all correspondence in the name of the Grand Lodge, excepting correspondence dealing with the duties and responsibilities of the offices of the International President and the Editor,

and be subject to the directions of the Executive Council. Whenever necessary he may visit any local or district lodge for the purpose of instructing the officers in the performance of their duties. He shall have the general supervision of the business of his office and, upon request, shall submit his books of account together with all papers, files, documents, etc., in his possession for the inspection of the Executive Council and the duly appointed Auditing Committee. He shall also codify and index the various articles and sections of the Constitution, and shall be authorized to put into effect a more up-to-date membership record and dues collection system.

* * * * *

Reports

Sec. 6. All decisions rendered by the International President or by the Executive Council, whether through correspondence or in regular session, shall be published in full by the General Secretary-Treasurer in the next monthly pamphlet containing itemized statement of receipts and expenditures provided for in Section 2 of this Article; and he shall perform such other duties as may be required of him by the laws, customs and usages and the Constitution of the Grand Lodge of the International Association of Machinists.

* * * * *

Article XIX

Government and Control of Local Lodges

Provisions for Constitution

Section 1. The Grand Lodge shall provide a constitution for the government and control of local lodges, and all local lodges organized and affiliated in the Grand Lodge of the International Association of Machinists shall be governed and controlled thereby. The Constitution for Local Lodges may be amended in the same manner as

provided herein for the amendment of the Grand Lodge Constitution and by no other method whatsoever.

By-Laws

Sec. 2. Each local lodge may adopt its own by-laws, provided that nothing is contained therein which is contrary to the provisions of the Grand Lodge Constitution or the Constitution for Local Lodges. The proposed by-laws of all local lodges, and any amendments thereafter proposed, shall be submitted to the International President for examination, correction, and approval before adoption.

* * * * *

Article XXV

Membership Conduct and Discipline

Improper Conduct of District Lodges, Local Lodges and Members Thereof

Section 1. Any district lodge, local lodge or any member or members of a local lodge circulating or causing in any manner to be circulated any false or malicious statement reflecting upon the private or public conduct, or falsely or maliciously attacking the character, impugning the motives or questioning the integrity of any officer of the Grand Lodge, district lodge, or officers or member of any local lodge shall be guilty of unbecoming conduct, and any such individual found guilty of a violation of the provisions of this Section shall be subject to fine or expulsion or both. Any district or local lodge found guilty of violating the provisions of this Section may be subject to the revocation of its charter.

Penalties

Sec. 2. Any member or members of any local lodge who attempt to inaugurate or encourage secession from the Grand Lodge or any local lodge, or who advocate, en-

courage, or attempt to inaugurate any dual labor movement, or who violate the provisions of the Constitution of the Grand Lodge, or the Constitution for Local Lodges, or any member who advocates or encourages Communism, Fascism, Nazism, or any other totalitarian philosophy, or who, by other actions gives support to these "philosophies" or "isms," shall, upon conviction thereof, be deemed guilty of conduct unbecoming a member and subject to fine or expulsion or both.

Authority to Expel

Sec. 3. The International President and Executive Council shall have authority to expel any member guilty of joining, or participating in any dual organization.

Filing of Charges

Sec. 4. It is the duty of any member of a local lodge, who has information of a violation of any provision of the Constitution of the Grand Lodge or the Constitution for Local Lodges by any member of the local lodge of which he is a member, to immediately prefer charges in writing against such member, by filing the same with the president of such local lodge. The president of the local lodge with whom the charges are filed shall forthwith proceed to bring the accused to trial under the provisions of the Code, as set forth in Article K of the Constitution.

In the event the president, or the president and other officers of the lodge are involved in the charges filed, the next ranking officer shall proceed as herein set forth. In the application of this section the order of rank of officers shall be president, vice president and past president. In the event the president, vice president and past president are involved in the charges, or are absent, the recording secretary shall call for nominations of a temporary chairman and the members present shall immediately proceed to select a temporary chairman by majority vote. The

temporary chairman selected shall then proceed to carry out the requirements of this Section.

Trial Ordered by International President

Sec. 5. In the event that any local lodge, or the members thereof, fail to proceed under the provisions of Section 4 of this Article, or fail or refuse to punish members thereof who are guilty of violating the provisions of the Grand Lodge Constitution or the Constitution for Local Lodges, then, and in that event, any officer of the Grand Lodge or any local lodge, or members thereof, may prefer charges against such member or members by filing the same in writing with the International President. Upon the receipt of such charges the International President shall forward one copy thereof to the accused and one copy thereof to the president of the local lodge of which the accused is a member, together with an order commanding said local lodge to proceed to place the accused on trial under the provisions of the Code as set forth in Article K of the Constitution. (In the event the president, or the president and other officers of the lodge are involved in the charges filed, the next ranking officer shall proceed as herein set forth. In the application of this section the order of rank of officers shall be president, vice president and past president. In the event the president, vice president and past president are involved in the charges, or are absent, the recording secretary shall call for nominations of a temporary chairman and the members present shall immediately proceed to select a temporary chairman by majority vote. The temporary chairman selected shall then proceed to carry out the requirements of this section.) If said local lodge fails or refuses, for fifteen (15) days thereafter, to proceed as ordered by the International President, then the International President shall notify the accused and the local lodge of which he is a member of the time and place, when and where the Executive Council will meet for the purpose of hearing evidence and

trying the accused upon charges theretofore preferred. At such trial before the Executive Council, the accused shall be entitled to all of the privileges set forth in Section 3 of the Code hereinabove referred to.

Appeals

Sec. 6. Appeals may be taken from the decision of the International President to the Executive Council. Appeals may be taken from the decision of the Executive Council to a convention of the Grand Lodge, or to the membership at large by submission thereof through the referendum. All appeals shall be laid before the body to whom addressed through the General Secretary-Treasurer. Before any appeals can be taken from any decision of the Executive Council, the decision, and all orders of the Executive Council in relation thereto, must be fully complied with by all parties concerned therein in order to entitle them to enter an appeal, and in no case shall any district or local lodge, or any individual member or members thereof, appeal to the civil courts for redress until after having exhausted all rights of appeal under the provisions of this Constitution. No member of the Executive Council shall have a vote on any appeal on which he has already rendered a decision.

* * * * *

Article XXVIII

Undelegated Authority and Power

Reservations

Section 1. All authority and power not specifically delegated to the officers in this Constitution is reserved to the membership.

CONSTITUTION FOR LOCAL LODGES

of the

INTERNATIONAL ASSOCIATION OF MACHINISTS

* * * * *

Article A

Definitions

A Local Lodge

Section 1. A local lodge shall consist of not less than fifteen (15) persons in any locality, qualified for membership and organized as a local lodge under a charter issued by the Grand Lodge of the International Association of Machinists.

* * * * *

Article B

Organization of Local Lodges

Who May Obtain Charters

Section 1. In localities where there are a sufficient number of machinists, die sinkers, die or tool makers, automobile or aircraft machinists or mechanics, specialists, production workers, or machinists' helpers employed in any one or more divisions of the trade, separate local lodges may be organized for the benefit of those employed in the respective divisions.

* * * * *

Article E

Membership

Eligibility

Section 1. Any machinist, die sinker, die or tool maker, automobile or aircraft machinist or mechanic, welder, spe-

are preferred and turn over the original charges to the committee provided for by the following Section: (In the event the president, or the president and other officers of the lodge are involved in the charges filed, the next ranking officer shall proceed as herein set forth. In the application of this Section the order of rank of officers shall be president, vice president and past president. In the event of the president, vice president and past president are involved in the charges, or are absent, the recording secretary shall call for nominations of a temporary chairman and the members present shall immediately proceed to select a temporary chairman by majority vote. The temporary chairman selected shall then proceed to carry out the requirements of this Section.)

Appointment of Trial Committee

Sec. 2 Whenever charges have been preferred against a member of a local lodge the president of such lodge shall immediately appoint a committee to investigate the charges, take testimony, and decide upon the guilt or innocence of the one accused. The committee so appointed shall within one week thereafter notify the member against whom the charges have been preferred as to the time and place, when and where, to appear for trial. (In the event the president, or the president and other officers of the lodge are involved in the charges filed, the next ranking officer shall proceed as herein set forth. In the application of this Section the order of rank of officers shall be president, vice president and past president. In the event the president, vice president and past president are involved in the charges, or are absent, the recording secretary shall call for nominations of a temporary chairman and the members present shall immediately proceed to select a temporary chairman by majority vote. The temporary chairman selected shall then proceed to carry out the requirements of this Section.)

cialist, machinist's helper, production worker, helper apprentice, or apprentice working in the machine or metal industry may be admitted to membership in a local lodge of the International Association of Machinists upon paying the required fee and assuming the obligation of the Association, and provided further that said applicant does not advocate or encourage Communism, Fascism, Nazism, or any other totalitarian philosophy, or who, by other actions, gives support to these "philosophies."

* * * * *

Article V

Government of Local Lodges

By-Laws

Section 1. Each local lodge may adopt its own by-laws, provided that nothing is contained therein which is contrary to the provisions of the Grand Lodge Constitution or the Constitution for Local Lodges of the International Association of Machinists. The proposed by-laws of all local lodges and all amendments thereafter proposed, except as to time and place of meeting, shall be submitted to the International President for examination, correction, and approval before being adopted.

Article K

Charges

Sec. 1. It is the duty of any member who has information of the violation of any provisions of the Constitution of the Grand Lodge or the Constitution of Local Lodges, by any member or members, to immediately prefer charges in writing against such member or members by filing same with the president of the local lodge to which the accused member or members belong, who shall supply a copy of the same to the member against whom the charges

Evidence

Sec. 3. The accused shall have the privilege, either in person or by attorney (the attorney being a member of the local lodge) to cross-examine all witnesses appearing for the prosecution and present all such evidence as he may deem proper in his own behalf. The Committee shall consider all of the evidence in the case and thereafter agree upon its verdict of guilty or not guilty. If the verdict be that of guilty the committee shall then consider and agree upon its recommendation of punishment.

Appearance

Sec. 4. If a member of a local lodge fails to appear for trial when notified so to do, the trial shall proceed as though he were in fact present.

Trial Procedure

Sec. 5. 1. Call Trial Committee to order.

2. Examine due books.

3. Clear the trial chamber of all people except the Trial Committee, the Trial Reporter (who need not be a member of the International Association of Machinists), the plaintiff and his attorney, the defendant and his attorney, and a Representative of the Grand Lodge, if in attendance.

4. Segregate the Plaintiff and the Defendant.

5. The Plaintiff and the Defendant shall remain in the Trial Chamber until trial is concluded.

6. The Chairman shall read the Charges and ask the Defendant if he is "guilty" or "not guilty." If the plea is "not guilty" the trial shall then proceed.

7. The Plaintiff or his attorney shall present his case first.

8. Witnesses shall be called into the Trial Chamber one at a time, and will leave the Trial Chamber upon completing their testimony, subject to recall by either the Trial Committee, the Plaintiff, the Defendant, or the Representative of the Grand Lodge.

9. Plaintiff's witnesses shall be called first.

10. Defendant and his attorney shall have the right to cross-examine Plaintiff's witnesses.

11. Defendant's witnesses shall then be called.

12. Plaintiff and his attorney shall have the right to cross-examine the Defendant's witnesses.

13. Before the Trial Committee shall begin their deliberations upon the testimony given, all persons except the Trial Committee, shall leave the Trial Chamber.

Report of Trial Committee

Sec. 6. The trial committee shall report at the next regular meeting of the local lodge. Such report shall be in two parts as follows:

First: The report shall contain the findings and verdict of the trial committee together with a synopsis of the evidence and testimony presented by both sides.

After the trial committee has made necessary explanation of its intent and meaning, the trial committee's verdict with respect to guilt or innocence of the defendant, shall be submitted without debate to a vote by secret ballot of the members of the local lodge.

Second: If the lodge concurs with a "guilty" verdict of the trial committee, the recommendation of the committee as to the penalty to be imposed shall be submitted in a separate report to the lodge and voted on by secret ballot of the members then in attendance.

Voting on Report

Sec. 7. The recommendation of the committee may be amended, rejected, or another punishment substituted therefor, by a majority vote of those voting on the question, excepting that it shall require a two-third (2/3) vote of those voting to expel the defendant from membership.

If the lodge reverses a "not guilty" verdict of the trial committee, the punishment to be imposed shall be decided by the lodge by a majority vote of those voting on the question, except that it shall require a two-thirds (2/3) vote of those voting to expel the defendant from membership.

Limit of Fines

Sec. 8. No fine shall be imposed upon any member or applicant eligible to membership in this Association in excess of fifty dollars ($50.00) unless the same is first approved by the Executive Council.

Appeals

Sec. 9. Appeals may be taken from the decision of any local lodge or Grand Lodge Officer to the International President, provided, however, that such appeals must be taken within thirty (30) days after the decision. Thereafter appeals may be prosecuted in accordance with the provisions of Section 6, Article XXV of the Grand Lodge Constitution.

Rights of Members and Lodges During Appeal

Sec. 10. While any member or local lodge is exercising the right of appeal the financial standing of such member or local lodge shall not be impaired by refusal to accept dues or per capita tax until after the Executive Council has passed upon the appeal. Should any member or local lodge decide to appeal from the decision of the Executive Council they must comply with the provisions of Section 6, Article

XXV of the Grand Lodge Constitution. No individual member or local lodge shall appeal to the civil courts for redress until after having exhausted all rights of appeal under the provisions of this Constitution and the Constitution of the Grand Lodge.

Filed October 23, 1952

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

AL FRIEDMAN, *Plaintiff*

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL.,
Defendants.

Preliminary Injunction

This cause came on to be heard upon Motion of plaintiff, Al Friedman, for Preliminary Injunction and other relief on the verified Complaint dated October 1, 1952, and after argument by counsel for both sides in open Court, and it appearing to the satisfaction of the Court that, pending the further order of this Court, that plaintiff is entitled to the issuance of a Preliminary Injunction, it is, by the Court this 23rd day of October, 1952,

ADJUDGED AND ORDERED, That until further order of this Court and pending final hearing of this cause, all proceedings shall be stayed, the defendants, the International Association of Machinists, A. J. Hayes, Eric Peterson and Elmer E. Walker and their agents, servants, officers, members and employees of every kind, be, and they are hereby restrained and enjoined from taking any step to carry out the expulsion order, and the effective date of

the expulsion order shall be stayed until the final hearing of this cause.

(s) *Luther W. Youngdahl,*
Luther W. Youngdahl, Judge.

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9 Filed Oct. 31, 1952

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

AL FRIEDMAN, *Plaintiff,*

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS; A. J. HAYES, Individually and as International President of the International Association of Machinists and Member of its Executive Council; ERIC PETERSON, Individually and as General Secretary-Treasurer of the International Association of Machinists and Member of its Executive Council; and ELMER E. WALKER, Individually and as General Vice-President of the Executive Council of the International Association of Machinists and Member of its Executive Council, *Defendants.*

Defendants' Motion to Dismiss

Defendants move the Court to dismiss this action on the ground that the Court lacks jurisdiction over the subject matter because the Complaint fails to allege facts sufficient to establish that the amount in controversy exceeds $3,000, and, as more particularly appears from the affidavit attached hereto and made a part hereof as Exhibit A, the amount involved does not exceed $3,000.

/s/ EDWARD J. HICKEY, JR.

EDWARD J. HICKEY, JR.
WILLIAM G. MAHONEY
620 Tower Building
Washington 5, D. C.
Attorneys for Defendants

Of Counsel:

PLATO E. PAPPS
General Counsel
International Association
of Machinists
9th and Mt. Vernon Place, N.W.
Washington, D. C.

MULHOLLAND, ROBIE & HICKEY
620 Tower Building
Washington 5, D. C.

Dated: October 31, 1952

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10 Filed Jan. 21, 1953

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

AL FRIEDMAN, *Plaintiff*

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL.,
Defendants

Memorandum to the Clerk

Plaintiff in this action invokes the jurisdiction of this Court strictly in its federal character—as unquestionably appears from paragraph one (1) of the complaint, which sets forth the necessary jurisdictional amount.

This being so, I have grave doubts for two reasons of the Court's jurisdiction.

One: Title 28, Sec. 1332, U. S. C. A., predicates the necessary jurisdiction on two grounds of moment here—the first being diversity of citizenship—there being no allegation to this effect.

Two: The jurisdictional amount. Mere allegation will not support this necessary predicate.

With reference to the first, it would appear domicile is the test of citizenship—the plaintiff therefore is given leave to amend to fill out the blank, with reference to what appears to be an unincorporated association. In any event, its legal status should be definitely set forth—and this is not incapable of discovery.

With reference to the jurisdictional amount since that has been challenged by the defendants, the burden is on the plaintiff to show the matter comes within the statutory limitation.

11 With reference again to diversity of citizenship, the interposition of a motion to dismiss does not cure the defect, nor confer jurisdiction on the Court. With further reference to two—that can only be resolved by the taking of testimony—the mode of its resolution being discretionary with the Court. See *McNutt* v. *General Motors*, 298 U. S. 178, at 184, 185.

/s/ *Matthew F. McGuire*,
Matthew F. McGuire,
United States District Judge.

January 19, 1953

12 Filed April 24, 1953

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

AL FRIEDMAN, *Plaintiff*

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL.,
Defendants

Memorandum to the Clerk

The order of February 16, 1953, is vacated, it having been signed but not filed.

That order originally provided that the plaintiff was given leave to amend his complaint so as to invoke the general jurisdiction of the Court as set forth under Title 11, Sec. 306, of the D. C. Code, 1951 edition. And also to invoke the jurisdiction of the Court as a United States District Court as provided in Title 28, U. S. C. A. [Sec. 1332 (a) (1) (b)], and for other reasons set forth in the same.

The order is vacated because the suggested amendment, upon reconsideration, does not in any way affect the ultimate responsibility of the plaintiff to indicate that the controversy involved is, in fact, in excess of $3,000 as alleged in the complaint. And so the original and basic difficulty remains uncured, whether the case proceeds under the general or local statute. See *Klepinger* v. *Rhodes* (1944), 78 U. S. App. D. C. 340.

If plaintiff proceeds under the general statute, the burden assumed of showing that the amount in controversy is, in fact, in excess of $3,000 as alleged, must be shown as heretofore indicated by the taking of testimony. If, under the local statute, this certainly must be done at least at pre-

trial, with the very real probability on failure the
13 case will be transferred to the Municipal Court. I do not think the plaintiff should have two bites of the apple, but should immediately elect under what statute he elects to proceed. Order held in abeyance pending election.

/s/ *Matthew F. McGuire,*
Matthew F. McGuire,
United States District Judge.

April 23, 1953

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14 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil No. 4528-52

AL FRIEDMAN, *Plaintiff*

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL.,
Defendants

Order

This cause came on to be heard upon the motion of defendants to dismiss this action on the ground that the Court lacks jurisdiction over the subject matter in that the amount in controversy does not exceed $3,000.00 and, upon consideration of the affidavits filed and the presentation of counsel it is, by the Court, this 16th day of February, 1953,

ORDERED, that the plaintiff is given leave to amend his complaint so as to invoke the general jurisdiction of this Court as provided in Title 11 Section 306 of the District of Columbia Code (1951 Ed.) and also to invoke the jurisdiction of this Court as a District Court of the United States, as provided in Title 28, U.S.C.A. Section 1332l (a)(1)(b), and in that connection to amend the complaint to allege the domicile and legal status of the defendant.

the International Association of Machinists. In all other respects the complaint is to remain unchanged. The Clerk is directed to accept for filing the amended complaint attached to this order.

It Is Further Ordered, that the defendants' motion to dismiss is referred to the Motions Judge for the taking of testimony relating to the jurisdictional amendment.

It Is Further Ordered, that the preliminary injunction heretofore issued is to remain in full force and effect.

/s/ Matthew F. McGuire,
United States District Judge.

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15 Filed April 24, 1953

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

Al Friedman, *Plaintiff*

v.

International Association of Machinists, et al., *Defendants*

Amended Complaint

Count I.

1. Plaintiff is a member of the Tool and Diemakers Lodge No. 688 (hereinafter referred to as Lodge 688) of defendant International Association of Machinists; and brings this action under Title 11, Sec. 306, of the District of Columbia Code (1951 Ed.).

2. Defendant International Association of Machinists, hereinafter referred to as the "Machinists," is an unincorporated labor organization with its principal place of

business in the City of Washington, District of Columbia. Defendant A. J. Hayes is the International President of the Machinists; defendant Eric Peterson is the General Secretary-Treasurer of the Machinists; defendant Elmer E. Walker is a General Vice-President of the Machinists; defendants Hayes, Peterson and Walker are members of the Executive Council of the Machinists; defendants Hayes, Peterson and Walker as officers of the Machinists and members of its Executive Council sufficiently represent the Machinists and members thereof to bring them before this Court to answer the charges herein. This action is brought against defendants Hayes, Peterson and Walker in their individual capacities as well as officers of the Machinists and members of its Executive Council.

16 3. On March 14, 1952, Lloyd Weber, business agent for District 9 of the Machinists, filed charges against plaintiff, pursuant to Section 1, Article K, of the Constitution of the Machinists, copy of which is attached hereto, marked Exhibit "A", and made a part hereof. The charge reads as follows:

> "Lloyd Weber, Card No. 464197, Member of Lodge 787, District Number 9, hereby prefers charges against Brother Al Friedman, Card No. H-93065, Member of Lodge 688, for violation of Article XXV, Section 2, of the Constitution of Grand Lodge of I. A. of M. Specifically I charge this Brother with advocating, encouraging and supporting Communism, and also with being a member of the Communist Party."

4. March 24, 1952, a trial was held before a Trial Committee appointed by the president of Tool and Diemakers Lodge 688, as provided in the Constitution of the Machinists. March 28, 1952, at a regular meeting of Lodge 688, the Trial Committee duly submitted its report to the membership as follows:

> "We, the members of the trial committee of the case of Lloyd Weber versus Al Friedman have after

long and serious deliberation and much discussion of the evidence presented find the defendant not guilty as charged due to lack of sufficient and positive evidence."

Thereupon the report of the Trial Committee was submitted to a vote of the members of Lodge 688 who voted: Not guilty, 95; guilty, 26.

5. Thereafter, on April 10, 1952, Lloyd Weber filed an appeal with defendant Hayes. Defendant Hayes considered the appeal of Lloyd Weber and, on May 5, 1952, in violation of the Constitution of the Machinists, set aside the decision of Lodge 688, found plaintiff guilty of an offense different from that charged; and ordered his expulsion.

6. May 9, 1952, plaintiff notified defendant Peterson that he was appealing the action of defendant Hayes to the Executive Council of the Machinists. The expulsion order of defendant Hayes was stayed pending plaintiff's appeal to the Executive Council and plaintiff continued to enjoy all the rights and privileges of membership in the Machinists and in Lodge 688.

17 7. July 22, 1952, defendant Peterson wrote plaintiff advising him that the Executive Council had voted to sustain the decision of defendant Hayes and that plaintiff was expelled from the Machinists effective July 22, 1952.

8. Thereafter plaintiff appealed to the Grand Lodge Convention of the Machinists which on September 16, 1952, voted to adopt the following report:

"A review of all the evidence before us: the transcript; the Decision of May 5, 1952, of the International President; and the subsequent action of the Executive Council; compels the conclusion that there is ample and sufficient evidence on the record as a whole to support the finding of a violation of Article XXV,

Section 2, and warrant the verdict of guilty and penalty of expulsion. We find and conclude that Al Friedman, at all times material herein, was a member of the Communist Party; that he advocated Communism; that he encouraged Communism; and that he gave support to Communism. As a result we conclude he merits the penalty of expulsion, and we recommend that the delegates in Convention assembled so find and conclude. To the extent, however, that the findings and conclusions of both the International President and the Executive Council may be inconsistent or in conflict with our findings, conclusions and recommendations, they are so modified."

9. The permitting of Lloyd Weber to take an appeal from the decision of Lodge 688 and in setting aside the finding of "not guilty" and substituting a finding of "guilty" and ordering plaintiff's expulsion from the Machinists is contrary to the Constitution of the Machinists, and violates fundamental principles of democratic procedure.

10. The decisions of defendant Hayes and of the Executive Council are illegal in that they (a) find plaintiff guilty of an offense different from that with which he was charged; and (b) order plaintiff's expulsion when, under the Constitution expulsion can be ordered only by a two-thirds vote of the local Lodge.

11. The decisions of defendant Hayes and of the Executive Council are illegal in that they are not supported by substantial evidence. It was not until April 1, 1949, that the Constitution of the Machinists provided that it was an offense for a member to advocate, encourage, or support Communism. There is not a scintilla of evidence that plaintiff advocated, encouraged or supported Communism after April 1, 1949.

18 12. The Procedure at the said Grand Lodge Convention was controlled completely by defendants.

Plaintiff's request to appear before said Convention was refused; and said Convention was misinformed by the defendants and their agents as to the facts involved and as to plaintiff's position thereon.

13. Plaintiff's membership in the Machinists and in Lodge 688 is a valuable property right. As a tool and die-maker, plaintiff belongs to a highly skilled trade and one that is almost completely organized and controlled by the Machinists. As a member of the Machinists, plaintiff's family is entitled to valuable death benefits in the event of plaintiff's death. As a member of Lodge 688, plaintiff is entitled to valuable strike benefits in the event of a strike at his place of work. Plaintiff is at present employed as a machinist by Anheuser-Busch, Inc., which has a contract with the Machinists requiring all machinists to be members of the Machinists' organization. This contract is in full force and effect and confers valuable rights on plaintiff. If the expulsion order is allowed to stand, then plaintiff will lose his present job, will be unable to obtain employment in his trade, will lose his right to strike benefits and the benefits of the contract between the Machinsts and Anheuser-Busch, Inc., and his family will lose the right to death benefits. Plaintiff has no adequate remedy at law to prevent the carrying out of the order of expulsion.

14. Wherefore, plaintiff prays:

(1) That this Court issue a temporary restraining order enjoining and restraining defendants and each of them, their agents, servants, officers, members and employees from taking any step to carry out such expulsion order; and that defendants be ordered to reinstate plaintiff as a member in good standing of the Machinists and of Lodge 688;

19 (2) that this Court issue its order to defendants to show cause, if any they have, why a temporary in-

junction shall not be granted enjoining and restraining defendants and each of them, their agents, servants, officers, members and employees, from taking any step to carry out the order finding plaintiff "guilty" and ordering his expulsion from the Machinists; and that defendants be ordered to reinstate plaintiff as a member in good standing of the Machinists and of Lodge 688;

(3) that on a full hearing of this matter on its merits, this Court perpetually enjoin defendants and each of them, their agents, servants, officers, members and employees, from taking any step to carry out the order finding plaintiff "guilty" and ordering his expulsion from the Machinists; and that defendants be ordered to reinstate plaintiff as a member in good standing of the Machinists and of Lodge 688; and

(4) for such other and further relief as to the Court may seem proper.

COUNT II.

15. Plaintiff is a resident of the City of St. Louis, Missouri, and is a member of the Tool and Diemakers Lodge No. 688 (hereinafter referred to as Lodge 688) of defendant International Association of Machinists. The amount in controversy herein exceeds the sum of $3,000.00 exclusive of interest and costs. All defendants are residents either of the District of Columbia or states other than the State of Missouri.

16. Jurisdiction is conferred on this Court by Title 28, U. S. C. A., Sec. 1332 (a) (1) (b).

17. Defendant International Association of Machinists, hereinafter referred to as the "Machinists," is an unincorporated labor organization with its principal place of business in the City of Washington, District of Columbia. Defendant A. J. Hayes is the International President of the Machinists; defendant Eric Peterson is the General Secretary-Treasurer of the Machinists; defendant Elmer E.

Walker is a General Vice-President of the Machin-
20 ists; defendants Hayes, Peterson and Walker are members of the Executive Council of the Machinists; defendants Hayes, Peterson and Walker as officers of the Machinsts and members of its Executive Council sufficiently represent the Machinists and members thereof to bring them before this Court to answer the charges herein. This action is brought against defendants Hayes, Peterson and Walker in their individual capacities as well as officers of the Machinists and members of its Executive Council.

18. On March 14, 1952, Lloyd Weber, business agent for District 9 of the Machinists, filed charges against plaintiff, pursuant to Section 1, Article K of the Constitution of the Machinists, copy of which is attached hereto, marked Exhibit "A", and made a part hereof. The charge reads as follows:

> "Lloyd Weber, Card No. 464197, Member of Lodge 787, District Number 9, hereby prefers charges against Brother Al Friedman, Card No. H-93065, Member of Lodge 688, for violation of Article XXV, Section 2 of the Constitution of Grand Lodge of I. A. of M. Specifically I charge this Brother with advocating, encouraging and supporting Communism, and also with being a member of the Communist Party."

19. March 24, 1952, a trial was held before a Trial Committee appointed by the president of Tool and Diemakers Lodge 688, as provided in the Constitution of the Machinists. March 28, 1952, at a regular meeting of Lodge 688, the Trial Committee duly submitted its report to the membership as follows:

> "We, the members of the trial committee of the case of Lloyd Weber versus Al Friedman have after long and serious deliberation and much discussion of the evidence presented find the defendant not guilty as charged due to lack of sufficient and positive evidence."

Thereupon the report of the Trial Committee was submitted to a vote of the members of Lodge 688 who voted: Not guilty, 95; guilty, 26.

20. Thereafter, on April 10, 1952, Lloyd Weber filed an appeal with defendant Hayes. Defendant Hayes considered the appeal of Lloyd Weber and, on May 5, 1952, in violation of the Constitution of the Machinists, set aside the decision of Lodge 688, found plaintiff guilty of an offense different from that charged; and ordered his expulsion.

21 21. May 9, 1952, plaintiff notified defendant Peterson that he was appealing the action of defendant Hayes to the Executive Council of the Machinists. The expulsion order of defendant Hayes was stayed pending plaintiff's appeal to the Executive Council and plaintiff continued to enjoy all the rights and privileges of membership in the Machinists and in Lodge 688.

22. July 22, 1952, defendant Peterson wrote plaintiff advising him that the Executive Council had voted to sustain the decision of defendant Hayes and that plaintiff was expelled from the Machinists effective July 22, 1952.

23. Thereafter plaintiff appealed to the Grand Lodge Convention of the Machinists which on September 16, 1952, voted to adopt the following report:

> "A review of all the evidence before us: the transcript; the Decision of May 5, 1952 of the International President; and the subsequent action of the Executive Council; compels the conclusion that there is ample and sufficient evidence on the record as a whole to support the finding of a violation of Article XXV, Section 2, and warrant the verdict of Guilty and penalty of expulsion. We find and conclude that Al Friedman, at all times material herein, was a member of the Communist Party; that he advocated Communism; that he encouraged Communism; and that

he gave support to Communism. As a result we conclude he merits the penalty of expulsion, and we recommend that the delegates in Convention assembled so find and conclude. To the extent, however, that the findings and conclusions of both the International President and the Executive Council may be inconsistent or in conflict with our findings, conclusions and recommendations, they are so modified."

24. The permitting of Lloyd Weber to take an appeal from the decision of Lodge 688 and in setting aside the finding of "not guilty" and substituting a finding of "guilty" and ordering plaintiff's expulsion from the Machinists is contrary to the Constitution of the Machinists, and violates fundamental principles of democratic procedure.

25. The decisions of defendant Hayes and of the Executive Council are illegal in that they (a) find plaintiff guilty of an offense different from that with which he was charged; and (b) order plaintiff's expulsion when under the Constitution expulsion can be ordered only by a two-thirds vote of the local Lodge.

26. The decisions of defendant Hayes and of the Executive Council are illegal in that they are not supported by substantial evidence. It was not until April 1, 1949, that the Constitution of the Machinists provided that it was an offense for a member to advocate, encourage, or support Communism. There is not a scintilla of evidence that plaintiff advocated, encouraged or supported Communism after April 1, 1949.

27. The procedure at the said Grand Lodge Convention was controlled completely by defendants. Plaintiff's request to appear before said Convention was refused; and said Convention was misinformed by the defendants and their agents as to the facts involved and as to plaintiff's position thereon.

28. Plaintiff's membership in the Machinists and in Lodge 688 is a valuable property right, which property right exceeds the sum of $3,000.00 in value. As a tool and diemaker, plaintiff belongs to a highly skilled trade and one that is almost completely organized and controlled by the Machinists. As a member of the Machinists, plaintiff's family is entitled to valuable death benefits in the event of plaintiff's death. As a member of Lodge 688, plaintiff is entitled to valuable strike benefits in the event of a strike at his place of work. Plaintiff is at present employed as a machinist by Anheuser-Busch, Inc., which has a contract with the Machinists requiring all machinists to be members of the Machinists' organization. This contract is in full force and effect and confers valuable rights on plaintiff. If the expulsion order is allowed to stand, then plaintiff will lose his present job, will be unable to obtain employment in his trade, will lose his right to strike benefits and the benefits of the contract between the Machinists and Anheuser-Busch, Inc., and his family will lose the right of death benefits. Plaintiff has no adequate remedy at law to prevent the carrying out of the order of expulsion.

29. WHEREFORE, plaintiff prays:

(1) that this Court issue a temporary restraining
23 order enjoining and restraining defendants and each of them, their agents, servants, officers, members and employees from taking any step to carry out such expulsion order; and that defendants be ordered to reinstate plaintiff as a member in good standing of the Machinists and of Lodge 688;

(2) that this Court issue its order to defendants to show cause, if any they have, why a temporary injunction shall not be granted enjoining and restraining defendants and each of them, their agents, servants, officers, members and employees, from taking any step to carry out the order finding plaintiff "guilty" and ordering his expulsion

from the Machinists; and that defendants be ordered to reinstate plaintiff as a member in good standing of the Machinists and of Lodge 688;

(3) that on a full hearing of this matter on its merits, this Court perpetually enjoin defendants and each of them, their agents, servants, officers, members and employees, from taking any step to carry out the order finding plaintiff "guilty" and ordering his expulsion from the Machinists; and that defendants be ordered to reinstate plaintiff as a member in good standing of the Machinists and of Lodge 688; and

(4) for such other and further relief as to the Court may seem proper.

SMITH, HARRIS & HANKE

By */s/ Victor B. Harris*
Victor B. Harris
411 North 7th Street
St. Louis 1, Missouri
Garfield 0882

KRIEGER & JORGENSON

By */s/ Seymour Krieger*
777 14th St., N. W.
Washington 5, D. C.
Executive 1635

Attorneys for Plaintiff

25 Filed June 2, 1953

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

AL FRIEDMAN, *Plaintiff*

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL.,
Defendants

Election

Pursuant to the memorandum to the clerk filed herein on the 23rd day of April, 1953, by the Honorable Matthew F. McGuire, plaintiff elects to proceed herein under the general jurisdiction of this Court as provided under Title 11, Sec. 306 of the District of Columbia Code, 1951 Edition.

SMITH, HARRIS & HANKE

By */s/ Victor B. Harris*
Victor B. Harris

KRIEGER & JORGENSON

By */s/ Seymour Krieger*

Attorneys for Plaintiff

26 Filed February 10, 1954

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

AL FRIEDMAN, *Plaintiff*

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL.,
Defendants

Deposition

Deposition of Witness, taken on the 21st day of January, 1954, at the office of Smith, Harris & Hanke, 808 Ambassador Building, St. Louis 1, Missouri, before Lois McMullin, a Notary Public within and for the City of St. Louis, State of Missouri, pursuant to notice, as authorized under the Rules of Federal Procedure, on behalf of plaintiff.

Appearances:

Smith, Harris & Hanke, by Victor B. Harris, Esq., for Plaintiff;

Edward J. Hickey, Jr., Esq., for Defendants.

27 **Al Friedman**

of lawful age, being produced, sworn and examined, on behalf of plaintiff deposes and says:

Direct Examination

By Mr. Harris:

Q. Will you state your name and address, please?

A. Al Friedman, F-r-i-e-d-m-a-n, 5841 DeGiverville, St. Louis 12, Missouri.

Q. And are you the plaintiff in this proceeding?

A. Yes.

Q. Where are you now employed?

A. Anheuser-Busch.

Q. How long have you been there?

A. Since December, 1948

Q. What is your job?

A. Machinist.

Q. Will you tell us briefly what your duties are?

A. I am one of the machinists employed on the third shift, which begins at 11:30 at night and finishes at 7:30 in the morning, servicing, maintaining, erecting, repairing machinery and equipment as designated by the company.

Q. How many days a week do you work?

A. Six days the vast majority of the year.

Q. Are you required to work six days a week?

28 A. On our shift we are required to work six days a week. The requirements are not so stated in the contract, but because of the production schedule of the plant we have to be there on Sunday night to get the plant ready to go out on Monday morning, and they object if we attempt to take a two days' leave.

Q. How much are you earning?

A. At the present moment you want the weekly or hourly?

Q. What are your wages now, and if there is any difference in the past year or two we will get to that. How much are they now?

A. The weekly wage nights, $137.25 per week.

Q. Does that include the six days?

A. That is all of it, yes, six days.

Q. What is your overtime arrangement for working the sixth day?

A. Double time.

Q. Have your wages been increased any in the last year?

A. We have had yearly wage increases. Last year I believe we got 15¢; I am sure we had got a 15¢ an hour increase on our base pay.

Q. And the year before did you receive an increase?

A. Yes; 12½¢ to the best of my recollection.

29 Q. Now, as an employee of Anheuser-Busch, do you receive any other benefits besides your wages?

A. From Anheuser-Busch?

Q. Yes.

A. Yes, we have a policy, welfare plan they call it, a a policy which gives us $3,500.00 life insurance, double indemnity in case of accidental death whether in or out of the plant, hospitalization both for yourself and dependants, sick benefits. We get vacation, of course, and holiday pay, which is in the contract, had been in the contract.

Q. How many holidays?

A. Eight per year.

Q. And how much is the sick benefit?

A. At the present moment it is $30.00 per week.

Q. Are those benefits dependent upon your employment at Anheuser-Busch?

A. Yes, it is term insurance. If we leave the company the policy is paid for by the company, it would terminate, perhaps you can get it privately. I don't know of anyone who has ever availed himself of that.

Q. Are you a member of a labor organization?

A. Yes, I am; International Association of Machinists, District Lodge No. 9, Local 688.

Q. How long have you been a member of that organization?

A. January, '43.

30 Q. Who comprises Lodge 688?

A. People employed in, numerous people throughout the city, as tool makers, tool machinists and the like.

Q. Is that a highly skilled group?

A. Yes, I would say just about the most highly skilled group in the district.

Q. Generally speaking is that group similar to the group to which you belong the most highly skilled group in the machinists' union?

A. To my knowledge, yes.

Q. Do the machinists union have a contract with Anheuser-Busch?

A. In 1951 we had a written contract, which at the sixty day period before termination in January, 1952, we re-opened for modification, negotiated from November until late in March, '52, didn't come to an agreement and it was dropped for several weeks until the strike was terminated by an injunction which the company obtained through Judge Murphy in St. Louis. We have been back at work since with periodic wage increases, with all contractual relationships, but to my knowledge no signed contract.

Q. Has the matter of the contract been discussed in your lodge meetings?

A. In November meeting, the shop meeting where the contract was discussed as to members of District
31 No. 9 which may be members of the shop.

Q. What do you mean by "shop"?

A. Our shop, the machinists, by union shop, when contract negotiations take place meet together as a shop and discuss modifications and changes in the contract in the period before the contract should be reopened, which has been sixty days, which was some time in October. We re-opened our contract January 1st with a letter to the company to reopen, set up their committee which meets with our committee, the union committee, to discuss changes in the contract.

Q. Now, you say the last written contract expired in December, 1951?

A. No, because there was a provision in the contract which states that unless it is terminated by either party with sufficient notice it can be opened for changes and as long as it is not terminated by either party it continues in force and effect until such time as it is officially terminated. It has never been terminated.

Q. Has any official of the union advised you either in union meetings or shop meetings about the status of the contract at Anheuser-Busch?

A. We have been told in no equivocal terms that we would sign no contract unless the injunction that has been issued would be clarified or vacated and unless the

clauses were sufficiently within reason so far as our union was concerned so that we could sign a contract. However, we do negotiate yearly and we are negotiating now, wage and fringe benefits, etc.

Q. What have you been told by union officials as to the status of the contract with regard to union shop proposition?

A. We have been told that our provision of the contract will be in force and effect and practically as well as by statement that has been told in the shop.

Q. By contract you are referring to the last written contract?

A. Last written contract, which covered the year 1951.

Q. If I understand you correctly, you said that all provisions of the 1951 contract remain in effect through an oral agreement?

A. Yes. There may be a letter to that effect, but I haven't seen it. I have no personal knowledge of it.

Q. The information that has been given you by union officials you have obtained?

A. Yes.

Mr. Hickey: Mr. Harris, I object to any of this, on the grounds it is hearsay, which it is. I take it your objective is to establish in the deposition somewhere that they are operating pursuant to a provision at the plant at the present time even though there is no formal contract in existence.

Mr. Harris: Yes.

Mr. Hickey: If it will help you on that, we will concede it.

Mr. Harris: I understand there would be no—I presume Mr. Friedman is correct, the provisions of the 1951 contract are in effect pursuant to this agreement between the union and Anheuser-Busch except as to wages and possibly the clause on jurisdiction.

Mr. Hickey: It is my understanding that they are not formally in effect, but that they are operating by mutual acquiescence pursuant to those terms except as they have

been changed by certain letters of understanding between the parties which have been affecting matters other than wages but do not affect the union shop provision.

Mr. Harris: Yes. Well, I am concerned only with the fact that there is an agreement between Anheuser-Busch and the Machinists Union under the terms of which all employees of Anheuser-Busch must be members of the Machinists Union. There is no question about that, is there?

Mr. Hickey: Well, of course, I can't subscribe to that definition of the requirements of the union shop provision the way you have expressed it.

34 Mr. Harris: I don't mean all employees of Anheuser-Busch have to be members of the Machinists Union, but I mean all machinist employees.

Mr. Hickey: I can't subscribe to that; I mean, let's get that straight on the record. I think you know that the company union shop provision requires that the employees of the company who are not in the machinists' union must join the machinists' union, with certain limitations. Now, to that I can go along, but not that they must be members of the machinists' union in order to obtain employment with Anheuser-Busch, which is the way I understood you to approach it.

Mr. Harris: Very well, will you state it as you understand it?

Mr. Hickey: Well, the union shop I think is more the way of doing this. Why don't we do it by having you show Mr. Friedman the contract provision governing the union shop which you have in your hand, apparently, and read that, or have him read it and then ask him if that is the provision under which he understands he is operating, and I think I will make a statement at that time that we will concede that it is. Let's do it this way: Why don't you just read it in the record and we can stipulate between us that that is the provision under which they are operating?

Mr. Harris: Off the record.

(Discussion off record.)

Mr. Harris: On the record. It is agreed that the following recognition clause and union security clause are now in effect between the machinists' union and Anheuser-Busch:

"Article 1. Section 1. Recognition. All employees employed as machinists, machinists' apprentices, machinists' helpers to perform all furring, boring, fitting, filling, planing, babbitting, chipping, sowing and mechanical repairs on gasoline, diesel and electric trucks and automobiles, and the making, assembling, erecting, dismantling, and repairing of all machinery of all descriptions and parts thereof, including machinist leadmen, EXCLUDING all helpers in the bottling shop, boiler and refrigeration plant, employees engaged in the rigging and hoisting of all machinery, and structural iron work, the refrigerated cabinet division except for maintenance repair and erection of plant equipment not involving pipefitting, excluding sheet metal work, 10-gauge or lighter plant-wide, except the Pasteurizer and soaker carriers, excluding electrical motors and general office clericals, guards, professional and supervisory employ as defined in Section 2 (11) of the National Labor Relations Act, as amended, and all other employees."

"Article 1. Section 2. Union Security. As a condition of employment all employees covered by this agreement shall no later than thirty days after the date of execution of this agreement or in the case of new employees no later than thirty days of the date of hiring become members of the union and remain members in good standing in the union during the term of this agreement."

Mr. Hickey: I want it further stated as a part of that statement that it is also conceded and agreed by and between counsel for both the plaintiff and the defendants that the union security provision above quoted was made pursuant to and is controlled by the provisions of the Taft-Hartley law. Is that correct, Mr. Harris?

Mr. Harris: There is no question about that. May we explain, we are stipulating in order to save time in asking the witness that there is a grievance procedure in effect between Anheuser-Busch and the machinists' union pursuant to which grievances have been processed and are being processed.

Mr. Hickey: Grievance procedure.

Mr. Harris: Yes.

Mr. Hickey: Such as is common to most collective bargaining agreements; that is right.

Mr. Harris: In other words, there is a grievance procedure in effect between Anheuser-Busch and the Machinists Union.

Mr. Hickey: Yes.

37 (By Mr. Harris) Now, as a member of Lodge 688 of the Machinists Union do you receive any benefits?

A. You mean, as a member of the Lodge, do I receive any benefits exclusive of what is given by the company?

Q. Yes.

A. Yes, there are benefits such as come through lodge affiliation, a death benefit, I believe, after thirteen years, I don't recall the exact wording of the constitution, but after thirteen years you receive the maximum of $300.00 death benefit. There is in addition to that $40.00 per week strike benefit on a legitimately sanctioned strike, which the lodge pays, accumulated from the District Grand Lodge and the local lodge treasury; the $40.00 a week remains constant, although the amounts paid by the Grand Lodge vary after the first two weeks. The first two weeks the Grand Lodge does not pay, but after that the District meanwhile pays $15.00, as I remember it, and the local lodge furnishes the difference up to and including $40.00 a week for any week you are legitimately on strike, or portion thereof.

Q. On such legitimate strike how much do you receive?

A. Forty dollars.

Q. Does that begin from the first day of the strike?

A. From the first day, but you don't get it the first
38 day, you get it for each day you are on strike.

Q. And did you receive such fund when you were on strike at Anheuser-Busch?

A. In '52, yes. We received two weeks' strike benefits; $40.00 a week, $80.00 we received, the members of our lodge.

Q. What is the hourly rate that you receive at Anheuser-Busch?

A. The base rate I believe is $2.74½. I may be off a cent or two. We have an additional premium of 15¢ an hour paid because we work the third shift, but the base rate I believe is $2.74½. I would have to figure it out to the penny.

Q. That is approximately correct?

A. Yes.

Q. Not more than a cent or two off?

A. Not more than a cent or two off.

Q. Are you familiar with the status of organizations of the tool and die makers in the St. Louis area?

A. Yes.

Q. Will you tell us, please, what the status of that organization is?

A. Without having documents to work from, I would say that the tool and die makers in St. Louis are 95% organized by the machinists' union, about 5% that are not in the machinists' union are probably in U. A. W.
39 shops and I. U. B. shops. A very tiny per cent is what is known as alley shop, basement shop, or maybe unorganized. In other words, a very small number of tool and die makers are not covered by contracts either in the machinists' union, which has the largest majority, 95% I think would be an accurate figure, about 5% are in U. A. W., I. U. E. shops.

Q. What do you mean by U. A. W. and I. U. E.?

A. Very large assembly plants in town, Carter Carburetor, Fisher Body, Ford, these places may have a few tool workers and those are under union contract.

Q. What is the full name of I. U. E.?

A. International Union of Electrical Workers. They have such places as Century Electric and Emerson.

Q. Are those two unions, I. U. E. and U. A. W., affiliated with the C. I. O.?

A. Yes.

Q. Now, if you should be expelled from the Machinists Union would it be possible for you to get a job in a plant of which either the U. A. W. or I. U. E. represents the union of the tool and die makers?

Mr. Hickey: Just a minute before you answer that. I am going to have to object to that on the grounds it calls for speculation and a conclusion of the witness.

A. No, I don't believe that expelled through the
40 charges as listed that I would have any possibility of getting a job in a plant organized by I. U. E. or U. A. W.

Q. Or by any other union?

A. Offhand I don't know of any other unions in the field, but I would think I would have, yes. I don't know of any other unions in the field in St. Louis.

Q. Now, where would it be possible under such circumstances of your having been expelled from the machinists' union, where would it be possible for you to get a job as a tool and die maker?

A. Well, I might be able to work in an alley shop where there is work spasmodically. I might be able to leave the trade.

Q. Well, for the moment, if you remained in the trade, other than the alley shop would there be any place you could find work?

Mr. Hickey: You understand I want to have the transcript show a continuing objection to any of this testimony.

Mr. Harris: All right.

A. I would think not. I have been trying to recall if there are any major shops in this city that are un-

organized. I can only think of one, and I believe that to be Sunnen Products. I would doubt very much if
41 Sunnen Products or any organized shop would hire, no matter how highly skilled, a tool maker who is expelled for the charges as listed.

Q. What would you be able to earn at these alley shops, what would they pay?

A. Since they are unorganized, they only pay what they have to pay in order to get a tool maker to do the rush work that occurs. Most of the alley shops are owner-operated shops that don't have the work because of their economic position, they only hire a week or two for rush orders they have to get out by a deadline and then they say "sorry." They do not pay anywhere near the tool maker rate, which in my knowledge ranged around $2.50, if they do pay anywhere near the tool maker's rate it is only for a few weeks and then you are laid off. There are no fringe benefits, there certainly are no holiday pay or no vacations. Then there is the period of unemployment, based on the fact that even the owner of these small shops isn't assured of weekly employment for himself, much less for anyone he hires.

Q. In other words, there isn't any fixed rate in an alley shop?

A. No. Not being organized, you are not required to pay anything except that which they have to pay in order to get the work done that they want done.

42 Q. And if I understand you correctly, the work under such circumstances is very uncertain?

A. Yes, very.

Q. Now, if you should leave the trade what would you be able to earn in the St. Louis area?

Mr. Hickey: I make the same objection, that that calls for speculation and conclusion.

A. It is true it is speculation, but having lived here all my life and being associated with numerous people who do work for a living in other things than tool work, I

would say the average rate in St. Louis for any kind of unskilled or semi-skilled work is not over $1.50 an hour.

Q. And that is based on your knowledge from a lifelong residence in St Louis?

A. My brother-in-law drives a truck for a clothes cleaner that serves garages and what not and he is a member of the teamsters' union, it is an unskilled job, his average, and he has been with them for five or six or seven years, has a good route so-called, is about $1.75. A friend of mine just recently went to work as a minor technician in a dental supply house, gave him $50.00 a week, and he had to pay $100.00 to the agency, so he could get the job.

Q. How old are you?

A. Thirty-six.

Mr. Harris: I think that is all.

43 Cross Examination

By Mr. Hickey

Q. Mr. Friedman, I believe you stated on direct examination that you have been a member of Lodge 688 of the International Association of Machinists since January, 1943?

A. Right.

Q. Did there come a time between the date January of 1943 and the present time that you were expelled from membership in the machinists?

The Witness: Shall I answer that?

Mr. Harris: Yes. I don't see the materiality. You mean any other time than alleged in the complaint?

Mr. Hickey: Did there come a time when you were expelled from the Machinists?

A. I received a letter in May of 1952, to the best of my recollection, from President Hayes of the Machinists Union that he had expelled me.

Q. What was the effective date of your expulsion?

A. Well, it was the date he wrote the letter. I believe it would be May 9, 1952. The records can be checked.

Q. Would the date of July, '52, refresh your recollection of the time when you were notified you would actually be expelled from membership?

A. It is possible there was a delay due to an appeal that I made. Yes, I think that is correct, there was a delay based on an appeal to the Executive Council; that I remember.

Q. And it was after the Executive Council had sustained the International President's decision that you actually were expelled, is that correct?

A. In July, '52, I believe the Executive Council did sustain the President's decision.

Q. You remained in an expelled status until a subsequent date, at which time you were reinstated pursuant to a temporary injunction of the Court, is that correct?

A. There was a period during which I was appealing through the various steps the constitution provides for, including the convention.

Q. I am asking you if you were not reinstated?

A. That is correct.

Q. By order of the Court, is that correct?

A. That is correct.

Q. What was the month?

A. I don't remember. You will have to check the record.

Mr. Harris: It was October of 1952.

Mr. Hickey: October, 1952. Well, let's accept that subject to later correction.

Q. Now, during the period between the date of your expulsion in July and your reinstatement pursuant to the Court order in October you were working on your job with Anheuser-Busch, were you not?

A. That is correct.

Q. Did the machinists' union at any time attempt to have you discharged from your employment?

A. Not to my knowledge.

Q. You would know, wouldn't you, if there had been any such effort made?

A. I might not know, but I don't believe such an effort was made.

Q. Nobody said anything to you about losing your job, did they?

A. No official, no.

Q. Well, now, in your complaint filed with the Court included is this statement; to which you have subscribed by affidavit. I am quoting: "If the expulsion," this is a sentence contained in paragraph 13 of the complaint, "If the expulsion order is allowed to stand the plaintiff will lose his present job," and that much of the sentence, on what do you base that?

A. On the maintenance of membership in the agreement.

Q. That is the way you interpret that union security provision, is it?

A. That is the way it is understood.

Q. Well, is it your understanding that if your expulsion from the union stands that you will have to be discharged from your employment?

46

A. Yes, I would say so.

Q. Is that the sole basis for your conclusion?

A. No, I would have other reasons for deeming an expulsion as possibly a job loss. Any active union member in the shop has only one protection, that is his union and its grievance procedure. Not a member of the union, any minor grievance which would not be handled by the union at that point could be cause for expulsion, whether rightly or wrongly entered into.

Q. You base this conclusion in your complaint that if the expulsion stands you will lose your job?

A. I will lose my union protection, and that is one of the parts of union membership.

Q. You understand it to be the fact were you to begin to lose your job the union would have to request you be discharged and your services terminated, don't you?

A. No, the union—

Q. I mean, on the basis of your not being a member of the union, you understand it to be a fact, do you not, that all of those cases are initiated by the union and the termination of services of employees who are not members of the union and initiated by the union?

A. I say it is possible it could be initiated by the
47 union, I say it could be initiated by the company also, due to friction in the shop.

Q. Do you know of a single instance where the company has initiated a request for discharge?

A. In my experience as shop steward I probably could dig out facts on cases where a person came into a shop under a union shop contract and for reasons as understood by the union members the membership of this person was not deemed advisable and therefore the company was informed at the end of thirty days he would not be permitted to become a member of the union and rather than go through the difficulties of terminating the person after the temporary period is over the company in order to avoid friction would terminate the services of the person during the probationary period; I have heard of that, yes.

Q. Have you ever been a shop steward?

A. Oh, yes.

Q. You have handled grievance cases?

A. Oh, yes.

Q. You are familiar with grievance procedure.

A. Yes.

Q. If the man's services fail to comply with the union's agreement there are certain procedures to which he is entitled, isn't that so?

48 A. You mean the person involved?

Q. Yes.

A. The person whose dismissal is being requested?

Q. Yes.

A. Except under the conditions of this expulsion, as I understand it.

Q. Well, now, I am talking about the grievance procedure. You can't be summarily discharged, thrown out of a job, without having a hearing of some kind, can you?

A. I don't know the law. I expect Mr. Harris can answer that better.

Q. I am not talking about the law, I am asking about the grievance procedure. Now, you said you handled it, what do you do?

A. For a union member you do certain specific things. If a person is not a union member you don't service them. Upon expulsion he wouldn't be serviced, period.

Q. Just a minute. Are you attempting to say only members of the union as distinguished from members of the craft who may not become members of the union are entitled to the benefits of the agreement, including the grievance procedure?

A. In cases of an expelled member, yes.

Q. That is your conclusion of the law, you recog-
49 nize that is a conclusion of law?

A. Conclusion based on practical experience, yes.

Q. But in any event it is a fact, is it not, Mr. Friedman, that when you were expelled from the union you had the period of July, August and September and part of October, you in fact did not have your job status impaired at all and no one sought to discharge you, is that correct?

A. As you were well aware—

Q. As you have already testified, that is correct?

A. That is correct. As you are well aware, the constitution includes a provision that during the process of an appeal a person's employment status shall not be impaired. The exact language you can read out of the Grand Lodge constitution.

Q. Wait a minute; you had taken all the appeal you saw fit to take at the July date when your expulsion from the union was made effective, had you not?

A. No—

Q. You had taken all the appeals that you saw fit to take at that time, had you not? Now, think carefully.

A. Yes, I believe we went to court at that time.

Q. All right. And it was only because of a court order dismissing the case that you subsequently appealed to the Grand Lodge convention?

A. Yes, on the suggestion of the Court I instituted the proceedings under the constitution.

Q. In September?

A. Right.

Q. There is no automatic stay of your expulsion during such appeal, is there?

A. No, not a stay of expulsion, but there is a provision of the constitution that I pointed out which does provide that during the period of the appeal no economic loss shall be suffered by the accused member, as I remember it.

Q. As you remember it?

A. You can read the constitution.

Q. I know, but you are testifying rather generally on it. Let's get it straight. The constitution makes that provision with respect to appeals of the President's decision, to the Executive Council, stays any action on your expulsion until after that appeal is exhausted. Is that what you had in mind?

A. Yes, and also the appeal from the Executive Council to the convention.

Q. You concede you may be wrong in that?

A. Yes.

Q. Were you notified you were reinstated during the period of your appeal?

A. No.

Q. So, the fact was you were actually in an expelled status from July up until the date in October when you were reinstated by the court order?

A. Illegally expelled status, yes.

Q. Well, as a matter of fact, you were in an expelled status?

A. Correct.

Q. And nobody sought to take your job during that period, did they?

A. To my knowledge, no.

Q. Now, I think you have already made it clear in the record with respect to your testimony with respect to strike benefits. There is no strike in progress at the Anheuser-Busch plant?

A. At the moment, no. There is a strike possible at any time.

Q. Now, you also testified that you are employed by Anheuser-Busch as a machinist?

A. Correct.

Q. A little later on in your testimony in response to questions by your counsel you discussed working as a tool and die maker in shops that you felt such employees were controlled by the machinists' union. You are not now employed as a tool and die maker, are you?

52 A. In a narrow sense, no. The wages, however, are higher.

Q. I am just asking you if you are employed as a tool and die maker.

A. In a narrow sense, no. The wages the unions fix for machinists are higher today than most of the tool and die makers in St. Louis get.

Q. But all of this testimony with respect to tool and die maker and its employment and supposition in what union represents them is not relevant to your present employment with Anheuser-Busch, is it?

A. Yes, because tool and die makers and machinists are employed in the same shops at slightly different rates of pay and the tool and die makers being the highest skill is the only thing comparable to the better machinist job at Anheuser-Busch. Most machinists make less than tool and die makers.

Q. But you are not working as a tool and die maker?

A. That is correct.

Q. Now, in your testimony about the job opportunities open to tool and die makers you mentioned the U. E. job—

A. No. I mentioned I. U. E. and U. A. W. I don't believe there is any U. E. left in St. Louis.

53 Q. What I want to ask you is this, would your answer be limited to those two organizations representing employees in your present employment as a machinist?

A. Machinist and tool and die makers. They cover the whole plant.

Q. No other job opportunities other than the ones you have mentioned?

A. Except for the alley shops I don't know of any.

Q. Isn't it a fact, Mr. Friedman, to your knowledge, that there are literally dozens of other employers of machinists other than the one you have just mentioned? For example, how about the United Steel Workers and the Gas, Coke & Chemical, don't they employ machinists doing the work you are now doing at Anheuser-Busch?

A. They may and they would of course be in the same shape as the U. A. W.

Q. How about the Chemical Workers of the A. F. of L.?

A. I don't know.

Q. How about butcher workers?

A. Handling machinists, not to my knowledge.

Q. How about the Mine, Mill & Smelter Workers?

A. Not in this area that I know of.

Q. How about the Shoe Workers Union, both of the C. I. O. and A. F. of L.?

A. They may have in their large plants a few machines under their contracts. I don't know that

54 to be true. Logically I would assume that is possible, but they also are sister unions and I would have as little chance of getting a job in an organized shop under a contract with these organizations as I would in the I. U. E. or the U. A. W. shop, which are the two largest

types of organization handling our type of work in St. Louis.

Q. Of course, in order to get a job in the St. Louis area you don't have to be a member of any union in order to get a job?

A. In order to keep a job.

Q. Just a minute, just answer the question I asked you. You do not have to be a member—

A. Under the Taft-Hartley law that is possible.

Q. You know it to be true, don't you, don't you understand the difference between a closed and a union shop?

A. Possibly.

Q. I am sure you do.

A. And I also understand when you walk in to apply for a job, which I have in my times of unemployment, the personnel manager if he feels you won't fit for any reason, either for competence or union affiliation with others in the shop, the union will object. The fact he must under the law give you a job doesn't mean he would hire you,
55 it means he would only have the discretion to hire or not hire as he saw fit.

Q. That is your conclusion. But in any event, you could apply for a job in any one of a number of places?

A. Oh, I could apply for jobs in A. A. M. shops.

Q. And that would be a question of your being obligated to join one of these organizations that represents workers at one of those places of employment?

A. Right.

Q. And you base your speculation that you would not be able to secure employment on the conclusion that they wouldn't admit you to their union, is that correct?

A. Correct.

Q. And do you understand if they would refuse to admit you to their union you would be fired from your job?

A. Under the law as I understand it, yes.

Q. We have got that straight now. Mr. Friedman, you have referred in a very general way and your complaint

refers to, also in a general way, to the tool and die making trade. In your dues book that you have with the machinists are you qualified as a tool and die maker or as a machinist?

A. We are all qualified as journeymen machinists. We had that out in the Lodge and the District and the Grand Lodge for years. The tool and die trade is not based on what is written in your books; it is based on whether
56 the employer will pay the rate for the work you do for him. If they pay the rate and you do the work the union permits anyone to get a tool and die making job. Now, there have been squabbles and discussions in Lodge meetings and our Lodge in particular which had this problem whether you needed a tool and die maker description in your book and it was decided the tool and die maker would not appear in the agreement whatsoever, become a separate classification, the journeyman machinist in your book represented the classification and dues for journeyman machinist and tool and die maker are no different. As a national organization that the machinist classification covered that if you could demand the rate and you got a tool and die maker job you wouldn't have to come back and get the book changed to die maker, nor did you have to change it to machinist if in periods of depression you took a machinist's job. To my knowledge and my own personal experience that worked because of the sporadic condition of the tool and die trade except in periods of war work or construction work and such that people operate the machines, have been worked as production machinists. Tool and die makers are capable of doing tool and die work on demand. If they do that work they have to get the rate.

Q. As you pointed out, you are capable, let's say qualified to do tool and die work, you are capable of
57 doing all kinds of work?

A. Oh, yes, production machinist, tool machinist, all of these rates under tool and die maker or machinist.

Q. And many rates, as you have indicated, are higher?

A. The construction trade, the newspapers and breweries are higher rates, and every one of these are under close organizational supervision of the A. A. M.

Q. You didn't mention them as job openings?

A. No, they are under the I. E. M. and I wouldn't be assigned on a construction job by the district office, I would not be hired in any of these high jobs.

Mr. Hickey: I think that is all I have.

Mr. Harris: Just one other thing.

Redirect examination by Mr. Harris.

Q. Just so it is clear, Mr. Friedman, you are a tool and die maker?

A. I have worked at United Devices and tool people as a tool and die maker, I have worked as a machinist, and I have worked as a construction machinist and I have worked at Anheuser-Busch as a machinist, highest skill, but not as a tool and die worker, because it is a separate trade all by itself.

Q. Who is Mr. Lloyd Weber?

A. Mr. Lloyd Weber is the business representative of District No. 9.

58 Q. Of the International Association of Machinists?

A. International Association of Machinists.

Q. Is he the top man in this area of the Machinists Union?

A. He is the highest elective official, yes.

Mr. Harris: That is all, except I would like the record to show Mr. Weber was present during the deposition. I have no objection that Mr. Weber was present; I am glad to have him.

Mr. Hickey: That is all:

/s/ Al Friedman

Subscribed and sworn to before me this 8th day of February, 1954.

/s/ Lois McMullan
Notary Public

60 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action 30. 4528-52
Filed March 2, 1954

AL FRIEDMAN, *Plaintiff*,

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL.,
Defendants,

Order

This cause came on for hearing on defendant's motion to dismiss the action on the ground that the Court lacks jurisdiction because the amount actually in controversy is less than $3,000.00, and this Court's order entered on October 15, 1953, directing that plaintiff support by competent proof his allegations that the amount in controversy exceeds $3,000.00.

Whereupon, after consideration of the pleadings, the memoranda of points and authorities filed by the parties, the arguments of counsel, and after hearing being accorded plaintiff for the purpose of offering testimony relating to the jurisdictional amount, this Court being of the opinion that no competent evidence has been presented to show that if the expulsion of plaintiff from defendant union is allowed to stand the alleged threatened losses to the plaintiff will exceed $3,000.00,

Now, therefore, it is hereby ordered that defendant's motion to dismiss be, and it hereby is, granted, the action is dismissed for lack of jurisdiction, and the temporary injunction heretofore entered is vacated.

/s/ EDWARD M. CURRAN,
United States District Judge.

61 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action 30. 4528-52
Filed March 29, 1954

AL FRIEDMAN, *Plaintiff*,

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL.,
Defendants,

Notice of Appeal

Notice is hereby given that Al Friedman, plaintiff in the above entitled cause, hereby appeals to the United States Court of Appeals for the District of Columbia from the order and judgment entered in this case on the 2nd of March, 1954, in which this action was dismissed for lack of jurisdiction and the temporary injunction theretofore entered was vacated.

SMITH, HARRIS & HANKE

By /s/ VICTOR B. HARRIS
411 No. 7th Street
St. Louis 1, Missouri

KRIEGER & JORGENSON

By /s/ SEYMOUR KRIEGER
Seymour Krieger
777 14th St., N. W.
Washington 5, D. C.
Attorneys for Plaintiff

62 **Court of Appeals Mandate**

Issued October 28, 1955

THE UNITED STATES OF AMERICA, ss:
THE PRESIDENT OF THE UNITED STATES OF AMERICA

To the Honorable the Judges of the United States District Court for the District of Columbia,
Greeting:

WHEREAS, lately in the United States District Court for the District of Columbia, before you or some of you, in a cause between Al Friedman, plaintiff, and International Association of Machinists, et al., defendants, Civil Action No. 4528-52, wherein the order of the said District Court entered in said cause on the 2nd day of March, 1954, is in the following words, viz:

"This cause came on for hearing on defendant's motion to dismiss the action on the ground that the Court lacks jurisdiction because the amount actually in controversy is less than $3,000.00, and this Court's order entered on October 15, 1953, directing that plaintiff support by competent proof his allegations that the amount in controversy exceeds $3,000.00.

"Whereupon, after consideration of the pleadings, the memoranda of points and authorities filed by the parties, the arguments of counsel, and after hearing being accorded plaintiff for the purpose of offering testimony relating to the jurisdictional amount, this Court being of the opinion that no competent evidence has been presented to show that if the expulsion of plaintiff from defendant union is allowed to stand the alleged threatened losses to the plaintiff will exceed $3,000.00,

"Now, therefore, it is hereby ordered that defendant's motion to dismiss be, and it hereby is, granted, the action is dismissed for lack of jurisdiction, and the temporary injunction heretofore entered is vacated.

EDWARD M. CURRAN,
United States District Judge."

63 as by the inspection of the transcript of the record of the said District Court, which was brought into the United States Court of Appeals for the District of Columbia Circuit by virtue of an appeal, agreeably to the act of Congress in such case made and provided, fully and at large appears;

64 And Whereas, in the term of October ....., in the year of our Lord one thousand nine hundred and fifty-four ....., the said cause came on to be heard before the said Court of Appeals on the said transcript of record, and was argued by counsel:

On Consideration Whereof, It is now here ordered and adjudged by this court that the order .....of the said District Court appealed from in this cause be, and the same is hereby, reversed with costs, and that this cause be, and it is hereby, remanded to the said District Court for further proceedings not in consistent with the opinion of this Court.

It is further ordered by the Court that appellant Al Friedman recover against said appellees International Association of Machinists, et al., Twenty-five Dollars ($25.00), for his costs herein expended, and Three Hundred Forty-seven Dollars and Thirty-five Cents ($347.35), taxable cost of printing his briefs and joint appendix herein, and have execution therefor.

February 17, 1955

66 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52
Filed November 3, 1955

AL FRIEDMAN, *Plaintiff*,

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL.,
Defendants

Order

On the 2nd day of March, 1954, this Court dismissed this action for lack of jurisdiction and vacated the temporary injunction heretofore entered on the 23rd day of October, 1952. Thereafter on the 29th day of March, 1954, plaintiff duly appealed the aforesaid order of March 2, 1954, to the United States Court of Appeals for the District of Columbia. On the 17th day of February, 1955, the Court of Appeals reversed and set aside the aforesaid order of this Court dated March 2, 1954, held that this Court had jurisdiction of this action.

The mandate from the United States Court of Appeals was stayed pending consideration by the Supreme Court of the petition for writ of certiorari filed by the defendants with the Supreme Court on May 20, 1955. The Supreme Court of the United States denied the petition for writ of certiorari on October 10, 1955, and the case has been remanded to this Court by the Court of Appeals "to decide such justiciable questions between the parties as it may find are raised by the pleadings."

Now, Therefore, pursuant to the aforesaid directions and mandate of the Court of Appeals setting aside the aforesaid order of this Court on March 2, 1954, it is
67 adjudged and ordered that, pending final hearing of this case, the preliminary injunction heretofore issued on the 23rd day of October, 1952, is reinstated and

it is further adjudged and ordered that until further order of this Court defendants are directed to file their answer within twenty days, and after filing of the answer this cause shall be placed on the trial calendar for a hearing on its merits.

/s/ EDWARD M. CURRAN
United States District Judge

Dated, November 3, 1955.

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69 Filed November 23, 1955

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70 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

AL FRIEDMAN, *Plaintiff*,

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL.,
Defendants.

Answer to Amended Complaint

Now come the defendants, International Association of Machinists, A. J. Hayes, Eric Peterson, and Elmer E. Walker, to answer as follows the amended complaint in this case filed April 24, 1953, which, in accordance with the Court's order of November 3, 1955, defendants have until November 23, 1955 to answer.

COUNT I

1. Defendants admit that prior to July 22, 1952 plaintiff was a member of the Tool and Diemakers Lodge No. 688 of the defendant International Association of Machinists and that plaintiff has elected to bring the action under the cited provisions of the District Code. Except

to the extent thus admitted, defendants deny the allegations of paragraph 1.

2. Defendants admit the allegations of paragraph 2 of the amended complaint.

3. Defendants admit the allegations of paragraph 3 of the amended complaint.

4. Defendants admit the allegations of paragraph 4 of the amended complaint.

5. Defendants admit that Lloyd Weber on April 10, 1952 filed an appeal with defendant Hayes and that upon consideration of such appeal defendant Hayes ordered
71 plaintiff's expulsion from the defendant International Association of Machinists. The remainder of the allegations of paragraph 5 are mere conclusions of law to which defendants are not required to plead, but to the extent defendants may be required to plead to such allegations, they are denied.

6. Defendants admit the allegations of paragraph 6 of the amended complaint.

7. Defendants admit the allegations of paragraph 7 of the amended complaint.

8. Defendants admit the allegations of paragraph 8 of the amended complaint.

9. The allegations of paragraph 9 are mere conclusions of law to which defendants are not required to plead, but to the extent defendants may be required to plead to such allegations, they are denied.

10. The allegations of paragraph 10 are mere conclusions of law to which defendants are not required to plead, but to the extent defendants may be required to plead to such allegations, they are denied.

11. The allegations of paragraph 11 are mere conclusions of law to which defendants are not required to plead, but

to the extent defendants may be required to plead to such allegations, they are denied.

12. Defendants deny the allegations of paragraph 12.

13. Defendants admit that plaintiff on April 24, 1953 was employed as a machinists by Anheuser-Busch, Inc. and that such company has a contract with the defendant International Association of Machinists which, subject to applicable Federal and State laws, requires machinists in the employ of Anheuser-Busch, Inc. to be members in good standing of defendant International Association of Machinists. Except to the extent thus admitted, defendants deny the allegations of paragraph 13.

Affirmative Defenses

By way of affirmative defense to the allegations contained in Count I of the amended complaint, defendants allege that:

72 (1) Plaintiff's expulsion from the defendant International Association of Machinists was in strict accord with the laws governing that Association and lawful and proper in every way as shown by the allegations in paragraphs (2) through (9) below.

(2) Plaintiff became a member in 1943 of the Tool and Diemakers Lodge No. 688 of defendant Association located in St. Louis, Missouri. On March 14, 1952 Lloyd Weber, business agent for District 9 of the Association, and a fellow member of that organization, filed written charges with the president of the Lodge in accordance with Article K, Section 1 of the Code of the Association, alleging that plaintiff had violated provisions of the Association's Constitution. These charges read as follows:

> "I, Lloyd Weber, Card No. 464197, member of Lodge 787, District No. 9, hereby prefer charges against Brother Al Friedman, Card No. H-93055, member of Lodge No. 688, for violation of Article XXV, of sec-

tion 2, of the Constitution of the Grand Lodge of the I. A. of M. Specifically, I charge this Brother with advocating, encouraging and supporting Communism and also with being a member of the Communist Party."

(3) A trial was then held on March 24, 1952, on these charges before a duly appointed trial committee of plaintiff's local Lodge No. 688 at which four witnesses testified in support of the charges and the plaintiff neither introduced any evidence by way of defense nor specifically denied the testimony. The trial committee found plaintiff not guilty and the membership of Lodge No. 688 upheld the trial committee's report.

(4) On April 10, 1952 the complaining member, Mr. Weber, appealed the decision of the local lodge to the International President of the Association, Mr. Al Hayes, pursuant to the provisions of Article K, section 9 of the Constitution of the Association. This written request set forth in detail the basis for the appeal. Article K, Section 9 reads as follows:

"Appeals may be taken from the decision of any local lodge or Grand Lodge Officer to the International President, provided, however, that such appeals must be taken within thirty (30) days after the decision. Thereafter, appeals may be prosecuted in accordance with the provisions of Section 6, Article XXV of the Grand Lodge Constitution."

73 (5) International President Hayes on May 5, 1952, handed down his written decision on the appeal containing his specific findings and conclusions. The decision, directing expulsion of the plaintiff from membership in the Association, is set forth in the final two paragraphs of Mr. Hayes' findings and reads as follows:

"Careful examination of all the testimony presented at the trial reveals that certain activities of the Defendant have been directed toward the advancement of

the Communist philosophy in the United States. In accordance with the duties and responsibilities of my office as set forth in the Grand Lodge Constitution, particularly Article XXV, Section 3 thereof, I find the Defendant in these proceedings has supported a movement dual in purpose to the International Association of Machinists and in violation of the Grand Lodge Constitution. While it is agreed that the Defendant has a right to think as he chooses, the Grand Lodge Constitution governing our organization makes it obligatory to deny membership in our Association to anyone who assists or encourages the Communist movement.

"I am therefore setting aside the decision of the Lodge in this matter and, based upon the record in the case, I find the Defendant guilty and hereby expel him from membership in our Association. The expulsion of Defendant Al Friedman from membership in our Association shall be effective as of this date. In the event the Defendant should apply for reinstatement in our Association, at a subsequent date, such application cannot be acted upon without the unanimous approval of the Grand Lodge Executive Council."

(6) On May 9, 1952, the plaintiff appealed the decision of the International President to the Executive Council of the Association in accordance with Article XXV, section 6 of the Association's Constitution. Counsel for plaintiff was given the opportunity to and did submit a written brief in support of the appeal to the Executive Council. On July 22, 1952, the plaintiff was informed that the Executive Council had sustained the decision of the International President and that the plaintiff was expelled from membership in the Association effective July 22, 1952.

(7) On August 8, 1952, plaintiff appealed the decision of the Executive Council to the Convention of the
74 Association. This action was taken after Judge McLaughlin on August 6, 1952, dismissed plaintiff's suit filed in this Court on July 30, 1952, to enjoin the expulsion of plaintiff from membership in the Association.

The dismissal was ordered on the ground that plaintiff had failed to exhaust his remedies within the Association as provided by its Constitution. *Friedman* v. *International Association of Machinists et al* (Civil Action No. 3367-52).

(8) The appeal was submitted to the Appeals and Grievance Committee of the Convention before which the plaintiff appeared in person on September 11, 1952. Thereafter the Committee submitted its report to the Convention finding as follows:

> "Conclusion: A review of all the evidence before us: the transcript; the Decision of May 5, 1952 of the International President; and the subsequent action of the Executive Council; compels the conclusion that there is ample and sufficient evidence on the record as a whole to support the finding of a violation of Article XXV, Section 2, and warrant the verdict of Guilty and penalty of expulsion. We find and conclude that Al Friedman, at all times material herein, was a member of the Communist Party; that he advocated Communism; that he encouraged Communism; and that he gave support to Communism. As a result we conclude he merits the penalty of expulsion, and we recommend that the delegates in Convention assembled so find and conclude. To the extent, however, that the findings and conclusions of both the International President and the Executive Council may be inconsistent or in conflict with our findings, conclusions and recommendations, they are so modified."

(9) This report was adopted by the Convention on September 16, 1952.

Wherefore, defendants pray that the Court deny the prayer for an injunction against defendants and each of them, their agents, servants, members, and employees contained in paragraph 14 of the amended complaint and grant judgment for the defendants with costs.

Count II

15. Defendants admit that prior to July 22, 1952 plaintiff was a member of the Tool and Diemakers Lodge
75 No. 688 of the International Association of Machinists, that defendants are residents of the District of Columbia or of states other than Missouri. Except to the extent thus admitted, defendants deny the allegations of paragraph 15.

16. The allegation of paragraph 16 is a conclusion of law to which defendants are not required to plead, but to the extent that defendants may be required to plead to such allegation, it is denied.

17. Defendants admit the allegations of paragraph 17 of the amended complaint.

18. Defendants admit the allegations of paragraph 18 of the amended complaint.

19. Defendants admit the allegations of paragraph 19 of the amended complaint.

20. Defendants admit that Lloyd Weber on April 10, 1952 filed an appeal with defendant Hayes and that upon consideration of such appeal defendant Hayes ordered plaintiff's expulsion from the defendant International Association of Machinists. The remainder of the allegations of paragraph 20 are mere conclusions of law to which defendants are not required to plead, but to the extent defendants may be required to plead to such allegations, they are denied.

21. Defendants admit the allegations of paragraph 21 of the amended complaint.

22. Defendants admit the allegations of paragraph 22 of the amended complaint.

23. Defendants admit the allegations of paragraph 23 of the amended complaint.

24. The allegations of paragraph 24 are mere conclusions of law to which defendants are not required to plead, but to the extent defendants may be required to plead to such allegations, they are denied.

25. The allegations of paragraph 25 are mere conclusions of law to which defendants are not required to plead,
76 but to the extent defendants may be required to plead to such allegations, they are denied.

26. The allegations of paragraph 26 are mere conclusions of law to which defendants are not required to plead, but to the extent defendants may be required to plead to such allegations, they are denied.

27. Defendants deny the allegations of paragraph 27.

28. Defendants admit that plaintiff on April 24, 1953 was employed as a machinist by Anheuser-Busch, Inc. and that such company has a contract with the defendant International Association of Machinists which, subject to applicable Federal and State laws, requires machinists in the employ of Anheuser-Busch, Inc. to be members in good standing of defendant International Association of Machinists. Except to the extent thus admitted, defendants deny the allegations of paragraph 28.

Affirmative Defenses

By way of affirmative defense to the allegations contained in Count II of the amended complaint, defendants allege that:

(1) Plaintiff's expulsion from the defendant International Association of Machinists was in strict accord with the laws governing that Association and lawful and proper in every way as shown by the allegations in paragraphs (2) through (9) below.

(2) Plaintiff became a member in 1943 of the Tool and Diemakers Lodge No. 688 of defendant Association located

in St. Louis, Missouri. On March 14, 1952 Lloyd Weber, business agent for District 9 of the Association, and a fellow member of that organization, filed written charges with the president of the Lodge in accordance with Article K, Section 1 of the Code of the Association, alleging that plaintiff had violated provisions of the Association's Constitution. These charges read as follows:

> "I, Lloyd Weber, Card No. 464197, member of Lodge 787, District No. 9, hereby prefer charges against Brother Al Friedman, Card No. H-93055, member of Lodge No. 688, for violation of Article XXV, of section 2, of the Constitution of the Grand Lodge of the I. A. of M. Specifically, I charge this Brother with advocating, encouraging and supporting Communism and also with being a member of the Communist Party."

77 (3) A trial was then held on March 24, 1952, on these charges before a duly appointed trial committee of plaintiff's local Lodge No. 688 at which four witnesses testified in support of the charges and the plaintiff neither introduced any evidence by way of defense nor specifically denied the testimony. The trial committee found plaintiff not guilty and the membership of Lodge No. 688 upheld the trial committee's report.

(4) On April 10, 1952 the complaining member, Mr. Weber, appealed the decision of the local lodge to the International President of the Association, Mr. Al Hayes, pursuant to the provisions of Article K, section 9 of the Constitution of the Association. This written request set forth in detail the basis for the appeal. Article K Section 9 reads as follows:

> "Appeals may be taken from the decision of any local lodge or Grand Lodge Officer of the International President, provided, however, that such appeals must be taken within thirty (30) days after the decision. Thereafter, appeals may be prosecuted in accordance

with the provisions of Section 6, Article XXV of the Grand Lodge Constitution."

(5) International President Hayes on May 5, 1952, handed down his written decision on the appeal containing his specific findings and conclusions. The decision, directing expulsion of the plaintiff from membership in the Association, is set forth in the final two paragraphs of Mr. Hayes' findings and reads as follows:

"Careful examination of all the testimony presented at the trial reveals that certain activities of the Defendant have been directed toward the advancement of the Communist philosophy in the United States. In accordance with the duties and responsibilities of my office as set forth in the Grand Lodge Constitution particularly Article XXV, Section 3 thereof, I find the Defendant in these proceedings has supported a movement dual in purpose to the International Association of Machinists and in violation of the Grand Lodge Constitution. While it is agreed that the Defendant has a right to think as he chooses, the Grand Lodge Constitution governing our organization makes it obligatory to deny membership in our Association to anyone who assists or encourages the Communist movement.

"I am therefore setting aside the decision of the Lodge in this matter and, based upon the record in the case, I find the Defendant guilty and hereby expel
78 him from membership in our Association. The expulsion of Defendant Al Friedman from membership in our Association shall be effective as of this date. In the event the Defendant should apply for reinstatement in our Association, at a subsequent date, such application cannot be acted upon without the unanimous approval of the Grand Lodge Exeutive Council."

(6) On May 9, 1952, the plaintiff appealed the decision of the International President to the Executive Council of the Association in accordance with Article XXV, section 6 of the Association's Constitution. Counsel for plaintiff was given the opportunity to and did submit a written

brief in support of the appeal to the Executive Council. On July 22, 1952, the plaintiff was informed that the Executive Council had sustained the decision of the International President and that the plaintiff was expelled from membership in the Association effective July 22, 1952.

(7) On August 8, 1952, plaintiff appealed the decision of the Executive Council to the Convention of the Association. This action was taken after Judge McLaughlin on August 6, 1952, dismissed plaintiff's suit filed in this Court on July 30, 1952, to enjoin the expulsion of plaintiff from membership in the Association. The dismissal was ordered on the ground that plaintiff had failed to exhaust his remedies within the Association as provided by its Constitution. *Friedman* v. *International Association of Machinists et al* (Civil Action No. 3367-52).

(8) The appeal was submitted to the Appeals and Grievance Committee of the Convention before which the plaintiff appeared in person on September 11, 1952. Thereafter the Committee submitted its report to the Convention finding as follows:

> "CONCLUSION: A review of all the evidence before us: the transcript; the Decision of May 5, 1952 of the International President; and the subsequent action of the Executive Council; compels the conclusion that there is ample and sufficient evidence on the record as a whole to support the finding of a violation of Article XXV, Section 2, and warrant the verdict of Guilty and penalty of expulsion. We find and conclude that Al Friedman, at all times material herein, was a
> 79 member of the Communist Party: that he advocated Communism; that he encouraged Communism; and that he gave support to Communism. As a result we conclude he merits the penalty of expulsion, and we recommend that the delegates in Convention assembled so find and conclude. To the extent, however, that the findings and conclusions of both the International President and the Executive Council may be inconsistent or in conflict with our findings, conclusions and recommendations, they are so modified."

(9) This report was adopted by the Convention on September 16, 1952.

(10) Plaintiff has elected pursuant to order of the Court to proceed in the cause under Title 11, section 306 of the District of Columbia Code, 1951 Edition.

(11) This election constitutes an amendment to the complaint dropping Count II therefrom, or a waiver thereof, since under paragraph 16, Count II is based on Title 28 U.S.C.A., Sec. 1332(a)(1)(b).

WHEREFORE, defendants pray that the Court deny the prayer for an injunction against defendants and each of them, their agents, servants, officers, members, and employees contained in paragraph 29 of the amended complaint and grant judgment for the defendants with costs.

Respectfully submitted,

/s/ EDWARD J. HICKEY, JR.
Edward J. Hickey, Jr.

/s/ JAMES L. HIGHSAW, JR.
James L. Highsaw, Jr.
620 Tower Building
Washington 5, D. C.
Attorneys for Defendants

Of Counsel:
MULHOLLAND, ROBIE & HICKEY
620 Tower Building
Washington 5, D. C.
November 23, 1955

81 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

Filed May 18, 1956

AL FRIEDMAN, *Plaintiff*,

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL,
Defendants

Motion of Defendants for Summary Judgment

Now come the defendants in the above captioned case, the International Association of Machinists and Messrs. A. J. Hayes, Eric Peterson, and Elmer E. Walker, officers of said Association, to move the Court pursuant to Rule 56(b) of the Federal Rules of Civil Procedure for summary judgment in their favor upon the amended complaint of plaintiff asking the Court to invalidate his expulsion from the Association for membership in the Communist Party and for advocating, encouraging and supporting Communism contrary to the laws of the Association.

This motion is based upon the grounds that (1) examination of the amended complaint and defendants' answer thereto discloses no issue of material fact between the parties requiring a trial of the said complaint, and that (2) the undisputed record of the proceedings before the defendant Association on the charges against plaintiff, attached hereto and attested by affidavit, shows his expulsion from the Association to have been in accord with the organization's governing rules and to be valid under applicable law.

82 A verified record of the proceedings before the Association is attached to the motion.

There is also attached a memorandum of points and authorities.

Respectfully submitted,

/s/ Edward J. Hickey, Jr.
Edward J. Hickey, Jr.

/s/ James L. Highsaw, Jr.
James L. Highsaw, Jr.
620 Tower Building
Washington 5, D. C.

Attorneys for Defendants

Of Counsel:

Mulholland, Robie & Hickey
620 Tower Building
Washington 5, D. C.

May 18, 1956

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83 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

Al Friedman, *Plaintiff*,

v.

International Association of Machinists, et al.,
Defendants.

City of Washington)
District of Columbia)

Affidavit of Eric Peterson

Eric Peterson, being duly sworn, deposes and says as follows:

1. I am General Secretary-Treasurer of the International Association of Machinists, an unincorporated labor organi-

zation, and have been serving in this position since December 7, 1944.

2. As General Secretary-Treasurer, I have in my official custody and control the files and records of the Association.

3. I have examined the copies of the documents attached to a motion of said Association for summary judgment in the above-entitled cause identified as Exhibits B-1 through B-4; C-1 through C-7; D-1 through D-18; and E-1 through E-7, and verify that they are true and correct copies of such documents in the files and records of the Association.

/s/ ERIC PETERSON
Eric Peterson

Sworn to before me this 23rd day of April 1956.

/s/ JOHN A. HUMMER
Notary Public

My Commission expires: June 14, 1961

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90 EXHIBIT B

B. DOCUMENTS RELATING TO TRIAL OF AL FRIEDMAN BY TOOL AND DIEMAKERS LODGE 688 OF INTERNATIONAL ASSOCIATION OF MACHINISTS.

1. Exhibit B-1 Charge against Al Friedman, dated March 14, 1952, by Lloyd Weber.

2. Exhibit B-2 Transcript of hearing before Trial Committee of Tool and Diemakers Lodge 688.

3. Exhibit B-3 Letter of Thomas Younglove to Lloyd Weber, dated January 22, 1952, submitted at p. 17 of transcript of hearing, Exhibit B-2.

4. Exhibit B-4 Photostat of membership card of Al Friedman in Tom Paine Club, referred to at pp. 7, 32 of hearing transcript, Exhibit B-2.

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91 EXHIBIT B-1

St. Louis, Mo.
March 14, 1952

Mr. Henry Eves, President
Tool and Diemakers Lodge 688
2824 Brentwood Boulevard
Brentwood, Missouri

Dear Sir and Brother:

I, Lloyd Weber, Card No. 464197, member of Lodge 787, District No. 9, hereby prefer charges against Brother Al Friedman, Card No. H-93065, member of Lodge 688, for violation of Article XXV, Section 2, of the Constitution of the Grand Lodge of the I. A. of M.

Specifically, I charge this Brother with advocating, encouraging and supporting Communism and also with being a member of the Communist Party.

Fraternally yours,

/s/ Lloyd Weber
Lloyd Weber

LW:vs

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EXHIBIT B-2

TOOL AND DIEMAKERS LODGE NO. 688 OF THE INTERNATIONAL ASSOCIATION OF MACHINISTS.

LLOYD WEBER, *Plaintiff*,

vs.

AL FRIEDMAN, *Defendant*.

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93 TOOL AND DIEMAKERS LODGE NO. 688 OF THE INTERNATIONAL ASSOCIATION OF MACHINISTS.

LLOYD WEBER, *Plaintiff*,

vs.

AL FRIEDMAN, *Defendant*.

BE IT REMEMBERED, That on Monday evening, March 24, 1952, a trial was had in the above entitled cause in the Conference Room of the Machinists' Building, 3547 Olive Street, in the City of St. Louis, State of Missouri, and the following proceedings were had and entered of record, to-wit:

TRIAL COMMITTEE: Mr. George Harbart, Chairman.
Mr. Bernard Luechtenfeld, Member.
Mr. Arthur Hedrick, Member.
Mr. Henry Eves, Ex-officio Member.

REPRESENTATIVE OF GRAND LODGE: Mr. Eric Bjurman.

The Chairman: I will duly call this trial to order.

Mr. Friedman: Prior to the witnesses coming in, I would like to defer, if I may, cross examining the witnesses until they are all called in.

The Chairman: That is all right, you may do that.

(Discussion as to right of Mr. Henry Eves President of Tool and Diemakers Lodge No. 688, and Ex-officio Member of Committee, to remain in room during the trial.)

Mr. Friedman: It is entirely with my consent if Henry wants to stay; it is all right with me.

The Chairman: If that is satisfactory, all right. Henry, you won't have a vote in the final decision.

94 Mr. Eves: No.

Mr. Bjorman: Is it all right with you for him to stay?

Mr. Friedman: It is with my consent, yes.

Mr. Bjorman: It will not be used as a point, that the President was present at the hearing?

Mr. Friedman: No, it will not.

Mr. Bjorman: All right, you may go ahead with that understanding.

The Chairman: I will proceed to read the charges.

(Reads):

Mr. Henry Eves,
President Tool and Diemakers Lodge 688,
2824 Brentwood Boulevard.

Dear Sir & Brother:

Lloyd Weber, Card No. 464197, Member of Lodge 787, District Number 9, hereby prefers charges against Brother Al Friedman, Card No. H-93065, Member of Lodge 688, for violation of Article XXV, Section 2 of the Constitution of Grand Lodge of I.A. of M. Specifically I charge this Brother with advocating, encouraging and supporting Communism, and also with being a member of the Communist Party.

Fraternally yours,

(Signed) Lloyd Weber.

The Chairman: Lloyd, I believe it is your place to prefer your charges again.

95 Mr. Weber: I think the record should show that Friedman received these charges and agreed to accept them from me upstairs when they were presented at 688's meeting last Friday.

Mr. Friedman: I will state the charges were furnished to me, and I received them with due warning.

Mr. Chairman: Do you plead guilty or not guilty?

Mr. Friedman: I am not guilty, Brother Harbart.

The Chairman: All right, you may present your case, Lloyd.

Mr. Weber: Is there any question here about anyone's presence here?

Mr. Friedman: I make no question about anyone's presence.

The Chairman: No, I don't see that there is.

PLAINTIFF'S CASE IN CHIEF:

Mr. Weber: On this question, Mr. Chairman and Members of the Committee, I expect to prove by evidence that Friedman has induced Ray Kutier, Card No. H-83145, member of Lodge 688, and Charles Korhammer, Card No. 865731, member of Lodge 688, to join the Communist Party.

I expect to show that Friedman has attempted to induce Brother Fred Spechman, Card No. B-64793, member of Lodge 688, to join the Communist Party.

I expect to show by testimony that Friedman is a
96 member of the Communist Party, and has attended its conventions.

I expect to show by the testimony of myself that it was told me by Friedman that he fought in the Spanish Civil War with the Abraham Lincoln Brigade; this organization has been branded as subversive by the Attorney General.

I expect to show that Friedman signed a petition as a member of the Citizens Committee requesting President Roosevelt to free Earl Browder. This organization has also been branded as subversive by the Attorney-General.

I expect to testify that Friedman has refused to sign a Non-Communist Affidavit, and resigned as the President of Lodge 688.

I expect to show by testimony that Friedman has held meetings in his home, and in the homes of others, his associates, generally known Communists, such as Sentner, Haveland Perkins, Clara Perkins, Marcel Smith, and others represented as being Communist organizers, adopting the Communist line, and at at least one of these meetings the Constitution of the Union of Soviet Socialistic Republic being passed around.

Starting about the latter part of 1945 I personally have had many conversations with Friedman. During these con-

versations he has, on more than one occasion, acknowledged that he had joined the Communist Party, as far back as I recall as 1939. As such he fought in the Spanish Civil War as a member of the Abraham Lincolun Brigade, which, as I said before, was branded as subversive by the
97 Attorney-General. He also told me he was a full-time representative of Harry Bridges' Longshoreman's Union, and that he had considerable training in schooling and organizing.

He joined the I. A. of M. on January 22, 1943, as an apprentice despite the fact that it was a comedown from his former position. He became a journeyman in October, 1945, and about this time became very active in the Machinists Union. He also began to hold meetings of selected individuals in his home and in the home of others. When the District decided to employ three organizers Friedman came to me and asked me if I would give him consideration for one of these positions. I pointed out to him at the time that our District could not afford to have him as a representative because of his reputation as being a Communist. Friedman asked at that time how long it would take to live this down.

Early in 1946 I took occasion to remonstrate with a group of 688's members for selling buttons to raise money for General Motors strikers. To support my argument I stated what the United Electrical Radio & Machine workers was trying to do with the Machinists Union at the Western Cartridge Company. Now, Friedman spoke a lot on several occasions, and suggested that: "I have put enough pressure on Sentner, who is a representative of the U. E., politically to force him to withdraw from the Western Cartridge case. This matter will be taken on a national level."

Those are his words as nearly as I can quote his
98 words. Shortly thereafter Herbert Logsdon, another representative of the U.E., called me to say that their organization was withdrawing from the ballot in the Western Cartridge Company union election.

During the discussion of this matter with Friedman I had every reason to believe that he was talking about Communist pressure, and he did nothing to dissuade me from that belief. And I would just like to point out that if he had severed his connections with the Communists, he certainly would not have had any influence with them.

Friedman has admitted to me, and I think it is common knowledge, that he was a Ward Committeeman of the Progressive Party of Missouri, and attended its conventions.

Friedman resigned as President of Lodge 688 in 1947 rather than sign a Non-Communist Affidavit.

Friedman supported Robert Shrenk in a Grand Lodge convention in 1948, a man who was expelled from our organization because of his Communist activities, and talked to me about securing my aid in that matter.

Sometime the latter part of 1946 Col. John Griffin, President of the American War Dads, sent a St. Louis detective to see me with some information pertaining to Friedman's activity in the Communist Party. I have talked with this detective many times on the telephone and in person, and he has always told me that Friedman was a powerful member of the Communist Party in St. Louis. This detective sent me the Grand Lodge Convention report in 1948, a record of Friedman's attendance at Communist Party meetings, and a photostatic copy of his card in the Tom Paine Club of St. Louis. I expect to show by testimony that the Tom Paine Club is a front organization.

99

Just a few months ago I talked to Mr. Neal Capaldo of the Americanism Committee of the American Legion. I arranged this meeting with a member of our organization who was a member of the Legion for a long time. And Capaldo furnished me with about the same record, and a photostat of a membership card in the Tom Paine Club.

I have been visited twice in the course of the past year by a Detective Sergeant of the St. Louis Police Department, one of whose assignments is checking into subversive activities, and I have asked him twice if Friedman was a

member of the Communist Party, and his answer was "Yes."

Now, throughout this period I was aware that Friedman was holding meetings for certain people in his home and in the homes of his associates.

Upon reading the newspapers and the account of the trial of eleven top Communists in New York I noticed the name of Thomas Younglove, a detective of St. Louis. I contacted Younglove, and he agreed that he would testify as soon as the Government would free him to do so. I contacted him while the appeal was still pending, and after the Supreme Court had denied the appeal I contacted Younglove again, and had him come in and tell at a meeting of the District Lodge No 9 what he knew about the activities of Friedman and some other members of the Machinists Union in the Communist Party.

In support of that, I would like to present first a list of subversive organizations which was furnished me on request by our International Union. (Hands document to Committee.) You will note in that list the Abraham Lincoln Brigade, the Citizens Committee to free Earl Browder, and several others. That might be marked as an exhibit if you want to keep that, sir.

The Chairman: Okay. The ones are checked that he has mentioned.

Mr. Weber: This is a copy of the information that was sent me—that copy came to me from this detective whom I can't name.

Mr. Friedman: I may examine this, of course?
(Examines documents.)

Mr. Weber: But the 1948 Convention—that is what you have there, George,—you will note on that membership card the question is asked: Is this organization a subscriber to the Daily Worker? And it is checked "Yes". George, I suggest that that be marked as a copy of the report I received of the Convention of 1948, because there follows it another report which is almost identical, which

I just got a couple of months ago from them. That is the same just about except the report of Jim Moore on top.

101 The Chairman: What was the date you want this marked?

Mr. Weber: I received that at the Convention 1948.

Mr. Friedman: When you are finished, George, I would like to see that.

The Chairman: Yes. (Hands document to Mr. Friedman.)

Mr. Weber: There is a booklet that has been around for sometime, called Communist Cancer. (Hands to Chairman.)

The Chairman: Where was this marker? (Referring to piece of paper.)

Mr. Weber: They are about two pages apart. One part shows the campaign followed by the Committee to free Earl Browder; and on the next succeeding page is the name of Al Friedman.

Mr. Friedman: I take it those exhibits will stay in the hands of the Trial Committee?

Mr. Weber: Oh, yes.

Mr. Eves: That is part of the record.

Mr. Friedman: That is part of the record. Good.

Mr. Weber: That is my side, testifying for myself. I have a witness.

The Chairman: Al, do you want to question him now?

Mr. Friedman: No, bring on your witnesses.

102 The Chairman: Call in one of your witnesses, Lloyd.

Mr. Friedman: When you have finished with that booklet I would like to look at it; no hurry.

The Chairman: By whom is that booklet put out, Lloyd, do you know?

Mr. Weber: Put out by the American War Dads.

Mr. Eves: Distributed by American War Dads

Thomas Younglove.

produced as a witness on the part of the plaintiff, upon examination testified as follows, to-wit:

Direct Examination

By Mr. Weber:

Q. Will you state your name?

A. Thomas Younglove.

Q. And your address?

A. 5217 McCausland, St. Louis 9.

Q. Your business?

A. I am a contractor of concrete work.

Q. Are you the Thomas Younglove who testified in the New York trial of eleven top Communists before Judge Medina?

A. I am.

Q. Why were you had as a witness by the Government?

A. I was an undercover man for the FBI, working in subversive work.

103 Q. What was the period of your undercover service?

A. In the early part of 1940, including up until, I believe, 1949, in the summer of '49.

Q. What was your office in the Communist Party as an undercover man?

A. I held many offices, both elective and appointive; and also held in the front organizations. I can name them. I was the Chairman of the Roosevelt Club for a period of time. I was Recording Secretary of the Trade Union Group of the Communist Party. I was the Financial Secretary, and also the Financial Secretary of the Communist Party, South Side Section.

Q. What subjects did your testimony in the New York trial cover on the activity of the party?

A. There were many parts that I testified to. The one in my opinion the most important was the teachings that I received in the schools held by Communists—conducted

by Communists, and later the training I received in a training institute here in St. Louis, conditioned and trained from Marxist books, such as State Revolution, the Communist Manifesto, History of the Communist Party, books by V. I. Lenin.

Q. Do you know Al Friedman?

A. I do.

Q. Can you identify him?

A. I can.

Q. Is he here?

A. He is in this room. This is Al Friedman here (indicating).

Q. Do you know him as a member of the Communist Party?

104 A. I do know him to be a member of the Communist Party.

Q. How do you know this?

A. From being with him in closed meetings, where the doors were locked, and closed and guarded; and by issuing him a membership card while I was a member of the Communist Party, and also the Financial Secretary of the South Side Section.

Q. Did you ever know of his withdrawing from the Communist Party?

A. Not to my knowledge.

Q. What was the last card issued to him in your memory?

A. May I look at these notes for a minute? (Examines paper.) The last card issued to him to the best of my recollection was in 1946, and the number was 94663.

Q. You say that was in 1946?

A. To the best of my recollection that was 1946. It could have been 1945; I am not sure.

Q. If he had withdrawn from the Communist Party would you have known it in your position?

A. In my position I would have known it up until 1949, the first part of May.

Q. Does the Communist Party co-operate with those who quit the party?

A. No.

Q. Will you tell in your own words the activities of the defendant, Al Friedman, as a member of the Communist Party?

A. Yes. Al Friedman has taken an active part in
105 the Communist Party, in their schools, and in their organizational work. He has held—and the reports came to me, when I was a Chairman of the Roosevelt Club the reports came in as to the activities of the party members, how well they have been able to entrench themselves in the various organizations, how much good they have done for the party, how often they hold their schools, where the schools are held, and who were the leaders of these schools. Al Friedman was regarded by the city committee members of the Communist Party as being the most active, and he was set up in the eyes of those as being the leader others should follow and do the work that he is doing.

Q. During what period?

A. Al Friedman was known for his work in the Machinists group, and also in the St. Louis Veterans Committee.

Q. Did you ever hear a report that schools, Communist schools, were being conducted at Friedman's home?

A. Yes.

Q. Through whom did you issue Friedman's membership card?

A. That card was given to the Financial Secretary of the Machinists Group, known to me as Marie Kutier.

Q. Was Friedman recognized as Chairman of the Machinist Group in the Communist Party?

A. The term "Chairman" doesn't register with me, Mr. Weber, but the word was used as the Leader of the groups.

Q. You say you have been in meetings with him;
106 where were these meetings held?

A. They were held in many places, namely, 1041A North Grand, City Headquarters of the Communist Party; The Keil Auditorium; and if my memory serves me right

at the Roosevelt Club on Gravois Avenue; and at one time he was a member of the Tom Paine Club.

Q. Is the Tom Paine Club a front organization?

A. The Tom Paine Club is one of the many front organizations which they have in the city.

Q. And do you know who brought people in the Communist Party from the Machinists Union?

A. The card was given to this man, Al Friedman.

Q. Do you know who he might have brought in who were members of the Machinists Union?

A. Yes. Ann Fite; Joe Fite; there was two Korhammers I believe; it was man and wife; I don't remember their first names. There are some others; I don't recall their names at this time.

Q. You mentioned Marie Kutier?

A. Marie, that is right; I don't know if he brought that person into the party, or not; I am not sure. He did not bring Ted Moore into the Communist Party.

Q. Did you ever attend a party convention?

A. A State Convention? Yes.

Q. Did you see Friedman at these conventions?

A. To the best of my recollection I remember Al
107 Friedman at the convention, and I believe the year was 1946, and the month was September. Now, I could be wrong on the dates, and also on the year.

Q. Do you know William Sentner?

A. I do know William Sentner.

Q. Is he a member of the Communist Party?

A. He is a member of the Communist Party.

Q. Do you know a man by the name of Haveland Perkins?

A. Yes, I do.

Q. Is he a member of the Communist Party?

A. He is also a member, and one of their instructors. He was one of my instructors; his wife was one of my instructors.

Q. Was his wife's name Clara Perkins?

A. Clara Perkins is right.

Q. Do you know a man named Marcel Smith?

A. I do know a man named Marcel Smith.

Q. Is he a member of the Communist Party?

A. He is.

Q. What were his duties?

A. He led discussion groups, and was an instructor for a short period of time teaching dialectic materialism, meaning: man has no soul; there is no God.

Q. As a member of or as secretary of the Machinist Club did the name of Charles Korhammer ever go through your hands?

A. Yes.

108 Q. Was there a woman named Korhammer?

A. There was.

Q. Did the name Ray Kutier ever go through your hands?

A. Yes.

Q. Marie Kutier?

A. Marie Kutier.

Q. Clyde Ray?

A. Clyde Ray, that is right.

Q. Joseph Fite?

A. Joseph Fite is right. I am prepared, sir, to give the card numbers issued to those people if you care for them.

Q. I wish you would.

A. Clyde Ray's card issued, number 94656. Alice Ray, number 94657. Charles Korhammer, Card number 946—this is blurred; I am not able to give these last two numbers. Ann Korhammer, number 94658; Ray Kutier, number 94659. Marie Kutier, number 94660. Ann Fite, number 94661. Joe Fite, number 94662. Al Friedman, number 94663.

Q. Sometime ago you spoke about our District Lodge. Do you make a practice of speaking before organizations?

A. I do, sir, on the average of about five to six times a week.

Q. And what do you say there?

A. I try to acquaint the people in our country with the methods of the Communists; the tactics they are using;

the infiltration methods they are using; why they are doing it; whom they owe their allegiance to; what these seven stars mean in the Communist flag, which represents
109 the seven continents in the world; and that the Communists do not owe allegiance to this country or any other country: they owe allegiance to the Kremlin—Russia, for I have seen them take the American flag and cast it aside on the floor, and walk over to the Communist flag, which was prominently displayed, and raise it up to their hearts and say: "The flag of our Country!"

Q. Did you write me this letter? (Hands letter to witness, which he examines.)

A. I did, Mr. Weber, on January 22nd.

Mr. Weber: I offer this letter. (Hands letter to Trial Committee). That is all I have.

Mr. Friedman: After I see that letter, Mr. Chairman, I would like to ask Mr. Younglove one question, and thereafter hold it in abeyance for a few minutes, if it is agreeable with the members of the Committee. I can ask the question now:

Q. Were you ever in attendance at C.I.O. Council meetings?

A. Yes, I was a delegate to the C.I.O. Council.

Mr. Friedman: That is all right now.

The Chairman:

Q. Have you any credentials on you to show that you are—or do you carry credentials of any kind as a Government representative, or a member of the Communist Party? Is there any way of showing by anything you have—

A. I am not a representative of our Country,
110 other than as a citizen. I do not speak for the Bureau. I have not spoken for the Bureau. I am not a member of the Communist Party. I have been expelled as an undesirable.

The Chairman: That is all. Will you hold yourself available for further questioning.

The Witness: I will, sir.

Witness Excused.

Russell L. Davis,

produced as a witness on the part of the plaintiff, upon examination testified as follows, to-wit:

Direct Examination

By Mr. Weber:

Q. What is your name?
A. Russell L. Davis.
Q. What is your address?
A. 4838 Anderson Avenue.
Q. Your position in the Machinists Union?
A. Assistant Business Representative.
Q. Do you know the defendant, Al Friedman?
A. I do.
Q. Did he work in the shops under your assignment?
A. On several occasions, yes.
Q. What Local Lodge is he a member of?
A. Lodge 688.

Q. Is that Lodge one of your assignments?

111 A. That is correct.

Q. Is it your practice to report to me the things that happen in the course of your handling your assignment?

A. That is part of my duties.

Q. Do you ever talk with members after the meetings?

A. Almost all the time; after every meeting I have conversations with various members of the Lodges to which I am assigned.

Q. Do you recall reporting to me of a conversation you had with a member of Lodge 688 with reference to Friedman as being a member of the Communist Party?

A. Yes, I remember a conversation I had with one of the members of Lodge 688, Charles Korhammer, at the St. Louis House.

Q. Where was this conversation held?

A. The conversation took place at the bar.

Q. Where at?

A. At the west end of the bar, which is located in the basement of the building.

Q. Which building?

A. Of the St. Louis House, at 3545 Lafayette.

Q. 2345?

A. I am sorry.

Mr. Friedman: I will accept the fact that the St. Louis House is where it is.

A. I was mistaken in the address.

Mr. Weber:

Q. Will you tell the Committee what the gist of that conversation was?

112 A. I approached Brother Korhammer at the bar, and we had some conversation, and during the course of the conversation I asked Korhammer if he was aware that Al Friedman was a member of the Communist Party. And Korhammer replied, "Why yes, I know it." He says, "In fact I am a member also, and so is Ray Kutier." I says, "I think you are kidding me on that, Charley." And he says, "No, I am not. In fact Al Friedman is the one that asked us to come into the Party." We had some other conversation about other things, and that was about the extent of the conversation as I remember it with Brother Korhammer.

Q. Did you ever hear Friedman denounce the Communist Party?

A. I never did.

Q. Did you ever hear him renounce membership in the Communist Party?

A. I never did.

Mr. Weber: That is all.

The Chairman: Any questions?

Mr. Friedman: Not right now. You are going to be in the building anyway, aren't you?

The Witness: I will be in the building.

Mr. Friedman: Okay.

Witness Excused.

113 **Fred Speckmann,**

produced as a witness on the part of the plaintiff, upon examination testified as follows:

Direct Examination

By Mr. Weber:

Q. Your name?
A. Fred Speckmann.
Q. Your address?
A. 17 Cliff Drive.
Q. Your position in the Machinists Union?
A. Assistant Business Representative.
Q. When did you assume that position?
A. In May of 1950.
Q. What Lodge of the I.A. of M. are you a member of?
A. Local 688.
Q. Did you ever hold office in this Lodge?
A. Yes.
Q. Were you an active member in this Lodge?
A. Yes.
Q. Do you know Al Friedman?
A. Yes.
Q. Did you ever attend meetings called by him?
A. Yes.
Q. Did you ever attend these meetings when he was not the President of Lodge 688?
A. Yes.
Q. Where were these meetings held?
A. At his home, and the homes of a couple of other

people: Ray Kutier's home, and Joe Fite's home, and Clyde Ray.

Q. Were only officers of Lodge 688 present at these
114 meetings?

A. No.

Q. Were all the officers of 688 present at these meetings?

A. No.

Q. Which officers did not attend regularly?

A. John DeMoor did not attend.

Q. Did he ever attend?

A. He might have attended one meeting; I am not positive though.

Q. Was every attendant at these meetings a member of the I. A. of M.?

A. No.

Q. Who were some of the non-members?

A. Ray Kutier's wife was one; Korhammer's wife was another, Mrs. Korhammer; and Mrs. Perkins—Clara Perkins; Haveland Perkins; Marcel Smith; and there was another one, I never did get his name.

Q. Did you ever meet Bill Sentner at these meetings?

A. Yes.

Q. Were any strangers at these meetings ever introduced to you as Communist Party organizers?

A. Yes.

Q. What was Friedman's position at these meetings?

A. Well, he was the spokesman. He did all the talking. At some of the meetings, which were instruction meetings, Mrs. Perkins and Haveland Perkins did the talking. They used a blackboard, but they were corrected on several occasions by Friedman.

115 Q. Was Friedman a recognized leader in this group?

A. That's for sure!

Q. Tell the Committee what you know about these meetings, Fred?

A. Well, these meetings started off as a group to be active and straighten out affairs. I was on the apprentice

committee, and I was organizing the Aalco Valve. We were called together to more or less educate ourselves, was the purpose, I was told, when we first started out. And then later on, like I say, there was instructions brought out; we were given literature. At one time there we had a group that was of the officers—well, not all the officers, but some of the officers from the local at that one meeting; and the next meeting I talked to Ed. Petrokovich and a fellow by the name of O'Meara, they were at the meeting, and I asked them why they were not going to the next meeting; and I was told Friedman was using this to further the Communist Party and not to benefit the organization; that they had supposed it was to work for the benefit of the organization, but it turned out it was being used for propaganda; later on the meetings narrowed down into a smaller group; there were fewer people there; that is when the organization was to explain Male Chauvinism, what it means, and different phases of the Communist terms. One night in particular when Bill Sentner was at his home, were told in the early part of the evening that there was a special meeting tonight, we were going to meet Bill Sentner; and around ten
116 o'clock or 10:15 he came into the house, he and his wife, and he was introduced to us in part of the meeting. Later on, we were called to regular meetings of this smaller-knit group, which included myself, Korhammer, Kutier, Kutier's wife, Korhammer's wife, Clyde Ray, and Lynn Mussler. And at this particular meeting that was in the summer of 1947 they had this fellow that I told you I didn't catch his last name, but he had records that he played, musical records, and he was giving out with some of his music that the Communist Party was interested in. I mean it was more or less something for every evening. That was about the extent of the meetings that I attended. There were many of those called regular meetings.

Q. And when did you become active with this group?

A. Right about the time of the Aalco Valve organizing campaign.

Q. Can you fix the year?

A. I would say around 1944 or '45, around in there. I would have to look at the records in there; I couldn't tell you exactly.

Q. How did you meet Friedman?

A. I was introduced to him at a meeting by Mr. Kutier, Ray Kutier, at a meeting of Local 688. I had seen him in the meeting previously, I mean doing some talking there, and I figured he was a pretty good speaker, and I listened to him; and I was talking to Ray Kutier, and he introduced me to him.

The Chairman:

Q. Who was it you were introduced to?

117 A. Al Friedman.

Mr. Weber:

Q. Did you ever attend meetings at Friedman's home?

A. Yes.

Q. Did you ever hear of a person named Haveland Perkins?

A. Yes.

Q. Did you hear of Clara Perkins?

A. Yes.

Q. Did they attend these meetings?

A. Yes. —Not all of the meetings. They attended a course that was in the home that he had instructions.

Q. What did they do at these meetings?

A. They were the instructors.

Q. What were some of the subjects, if you can recall, that they discussed? A. Well, it was economics. When they discussed they used a blackboard and pointed out how the capitalistic system was defunct; that it was dying of its own volition; I mean it was no good, just crumbling and falling apart.

Q. How were they introduced to those in attendance?

A. They were introduced a "Perk" or Perkins as the man, and Mrs. Perkins; and they were introduced as instructors from Fordham University, or something like that; they were supposed to be people who had college training, college people; but they were working at Daisy Churn Company in St. Louis, and they were active stewards in U. of E.

Q. Did anyone ever refer to them as Communistic
118 instructors?

A. Not at that time, no.

Q. Did they at any time?

A. Later on, yes.

Q. They did refer to them as Communistic instructors?

A. Yes, later on, but not when we started out.

The Chairman:

Q. In these meetings they were referred to—

A. When we first started out in the meetings they were not known as Communists then. They were just progressive people, supposed to be; and they were trying to give us instructions on economics, because they were supposed to be well educated people from Fordham or somewhere in the East; they did speak with an accent, like people from Boston.

Mr. Weber:

Q. Were they later identified as members of the Communist Party?

A. Yes.

Mr. Friedman:

Q. By whom, Fred?

A. By you; and, well, when I talked to Perkins himself, when I took him home.

Mr. Weber:

Q. What were Friedman's activities in these meetings with respect to this schooling?

A. Well, like I said before, he was in the background, listening, and when there was any correction to be made, he made the correction, if he felt they were "getting off the beam" to clear up the subjects.

Q. Did you ever attend any meetings at Fite's home?

A. Yes.

119 Q. Who were present at those meetings?

A. Well, there was —

Q. We will forget that. Was there any activity which you could nail down as being an activity of the Communist Party at one of these particular meetings at the Fites' home?

A. Yes, as I said before, they played the records. This one fellow that was an organizer played the records. He played them on a victrola that he had a sort of contraption and it would come out of the radio in the front room; he would put them on in the other room, the records. And after the meeting was over they brought out a little booklet called Constitution of the Soviet Socialistic Republics, and Clyde Ray had them, and they wanted to sell those for a nickel a piece.

Q. Was Friedman present?

A. Yes.

Q. Were Kutier and his wife present?

A. Yes.

Q. Korhammer and his wife?

A. Yes.

Q. Clyde Ray and his wife?

A. Yes. Clyde Ray was the one that gave them out.

Q. Was Mussler present at these meetings?

A. Yes.

Q. Winfield Mussler?

A. Yes.

Q. When you were entered as a candidate for organizer of the District did Friedman contact you?

A. Yes.

Q. What did he do?

A. He contacted me on the phone, and told me
120 he had entered my name in the District Lodge meeting as a candidate for the organizer, District number 9.

Q. Did he tell you anything else?

A. Well, at that particular time he said that they figured I was the guy who could make the grade. He felt I would be the most acceptable out of the group. He later—

The Chairman:

Q. Which group was he referring to, Fred, the group that attended these meetings, or the Lodge?

A. The group that attended the meetings.

Mr. Weber:

Q. Did Friedman ever ask you to join the Communist Party?

A. Yes.

Q. When was that?

A. It was right prior to the election for the organizer. The organizer was going to be elected,—there was three of them going to be elected on Wednesday at the District Lodge meeting; it was either Monday or Tuesday prior to that meeting that he called me on the phone about 6:30 and told me he had something very important to discuss with me at his home. I came to his home, and there was no one else there but himself, and we went in his front room, and after a little preliminary discussion about did I realize the importance of the step of being made an organizer, and I was being picked by this group, and there would be a lot of responsibilities in that, he asked me if I would then join the Communist Party.

Q. Did he make any reference to the other members

121 of the group being members of the Communist Party?

A. Not at that particular time, no.

Q. Did he ever?

A. Yes.

Q. Did you join the Communist Party?

A. No, I didn't. I was offered membership on a basis that I wouldn't have any card, there would be no record, I would merely pay dues.

Q. Did Friedman ever promise you a job in the U.E.?

A. Yes.

Q. How did he put that?

A. Well, it was after I had lost the election in District Number 9 for organizer, and it was at one of the meetings that was held at his home. After the meeting was over he said, "If you want to, I will fix it up with U. E., and I will get you a job as organizer with U.E."

Q. When you went to work at Loose Leaf Metals did you have a conversation with Friedman about that?

A. Yes.

Q. What was the nature of the conversation?

A. Friedman called me on the phone, and told me the Communist Party had lined me up a job with Loose Leaf Metals, and that they had directed Korhammer to get me that job out there.

Q. Did he say the Party told him to do that?

A. Yes.

Q. Did you understand that to mean the Communist Party?

122 A. That is right.

Q. Did you ever attend a meeting at Winfield Mussler's house?

A. Yes.

Q. Who was present at that meeting?

A. At that particular meeting, it wasn't a meeting called of the group that was known, that I have been talking about here; it was a meeting called, supposedly an of-

ficers' meeting; and at that meeting was the time that Bob Shrenk came to town, and he had a man named "Whitey" with him, and they discussed the problem of Bob Shrenk's being expelled from the Machinists at that time, how his case would progress; and they also discussed fighting the Machinists' program which was sponsored by the Local up there in the East.

Q. Did you testify that Friedman assisted in these visiting C. P. members, in getting over their points in their schooling?

A. Yes.

Q. He did ask you to join the Communist Party?

A. Yes.

Q. You testified that Marcel Smith was present at some of these meetings?

A. Yes, he was at the meetings in Friedman's home, at two meetings that I recall.

Q. Do you know Marie Kutier?

A. Yes.

Q. Did she have a position in the Communist Party?

A. Friedman told me that she was the Secretary
123 for the Communist Party Machinists' Unit; and I understood on several occasions she accompanied Friedman to Chicago and some other cities to attend the meetings of the groups within the Machinists Union when they had their "get together".

Q. Did you ever hear Al Friedman denounce Communism?

A. No, never.

Q. Did you ever hear him renounce Communism?

A. No.

Q. Were you ever asked to contribute money to the defense of the Communists who were on trial?

A. Yes.

Q. Tell about that.

A. At the St. Louis House after the St. Louis Lodge meeting Friedman and a group of us were at a table, and

he got me over in the corner and asked me if I would donate twenty-five dollars to the defense of the leaders of the Communist Party who were on trial.

Q. Do you know Charles Korhammer, a member of 688?

A. Yes.

Q. Do you know that he is a member of the Communist Party?

A. He told me that he was.

Mr. Weber: That is all.

Mr. Friedman: Just one question before we call the next witness. Did your wife ever come to my house?

The Witness: Yes.

Mr. Friedman: That is all right now. Thank you. Will you excuse the witness a few minutes until I examine
124 these notes.

The Chairman: Yes, you may be excused.

The Witness: I would like to explain why my wife was there. I was to return some books he had given me. The Value, Price and Profit by Earl Marx was one.

Mr. Friedman: Q. Was your child with you?

A. Yes.

Witness Excused.

Mr. Weber: That is all I have.

The Chairman: Okay. Al, do you care to question?

Mr. Friedman: Yes, I would like to start from the beginning.

DEFENDANT'S CASE IN CHIEF:

Mr. Friedman: I want to point out, I rather welcomed the charges when they were finally made. I received intimation of them a day or so after they were promised at the Grand Lodge meeting in February, because this was sometime in the last six or seven years, and I rather welcomed them when they came to me in a form I could fight back.

Heretofore everybody else that I know of had seen this socalled photostat membership card of me in the Tom Paine Club but me. This is my first time to see it, although it was used very effectively in my election in 1950.

When I read the charges I noticed Lloyd was not only charging me with actions of advocating encouraging
125 and supporting Communism, but also charging me with being a member of the Party. And I read that and thought. Lloyd is charging me with not signing a Non-Communist Affidavit that has been under the Taft-Hartley Law since 1948, and signing under a Notarial Seal, and being liable for conviction for ten years, and therefore being charged with being a member of the Communist Party today, wouldn't be Lloyd's place alone, but a Federal Grand Jury, or any Government agent could charge me with perjury in saying I signed a Non-Communist Affidavit in 1949. The Article he quotes in the Constitution didn't appear in our Constitution until 1949; it was a result of deliberations in our Grand Lodge of 1948 at which I was one of those in attendance, and it is now appearing for the first time in April, 1949. Prior to that time the Article did not exist. And not one word of testimony brought here today—and I will question the veracity of the testimony as we go along—has to do with anything prior to '44, except Lloyd's initial statement, and later than '46 or '47 if we take Speckamnn's testimony as the latest accusations; and yet I am being charged here under an Article in the Constitution which occurred in April, 1949. I want that noted. Not that I am excluding the testimony as such; I was rather pleased to have it on the record for the first time so I could handle it.

I don't take these things lightly at all. These days, being charged with what Lloyd is charging me with, is
tantamount not only to being subversive but being a
126 spy, and an agent of Russia, being a professional revolutionary, who is interested in every other interest than the interest of the working man. And Lloyd

knew that I had them in mind when I came into the Union in 1943. I want to point out I was signed up by the Steward in 1942, and because of the holidays I didn't come in until January. I just want the record to be straight, because I have been in this Union and been working at the trade since the latter part of January, 1943. I resigned from IOWU, the Longshoremen's Union, in December, December 15th to be exact. My last paycheck was dated December 7th, covering the period which they had held back when I had started to working for them some years before, and they paid me off on December 7th because I resigned on the day of Pearl Harbor, refusing to stay in Chicago when my family was in St. Louis. I thought possibly I could be of some help. I resigned there and came back to St. Louis. From that time until I went into the shop I worked in various capacities around town: on the river, and in the engine room; and looked around for some place in my work. However, that isn't here or there. I came to the Union at the time stated, and I came from the IOWU.

I notice in this Communist Cancer that I am listed as having signed—and I honestly can't say whether I did, or not,—a petition of Earl Browder, who may not be familiar to some of the people, was in jail for being a Communist, in Roosevelt's Administration, and later
127 he was pardoned by Roosevelt, and I am listed here as one of the three members of the Communists who had signed that petition, presenting and praying that he be pardoned. I notice this date is 1945, with revised edition in 1946. I don't know what authority that has, except I don't question the fact that I might have signed that petition as one of the organizers of IOWU, if you know anything about that, which I left to come here as you heard from Lloyd's testimony. You know Harry Bridges has been in charge of that for several years. After various cases and decisions he is still in court, and will probably be there for sometime; however, in his Union it was generally accepted by the membership and others

that you don't hound a man for technical violations, and since Bridges was under constant complaint the members were sympathetic, and I may have signed such a petition if they brought it around. However, I don't hink that is indicative of membership in the Communist Party.

I note also that I have been accused of being a member of a subversive organization by virtue of having been in Spain in 1936 and '37—although Lloyd didn't mention dates, I will tell you I was in Spain from very late in '36 through most of '37; and I have been told I was in the Abraham Lincoln Brigade. I was not. I was in an outfit called the 87th, composed of people like myself; it was not the Abraham Lincoln Brigade; it was composed of people like myself; I was seventeen at the time; it was composed of people mainly like myself; although I got a bad leg out of it, I don't regret it. I went to Paris,
128 where I had gone with some money supposed to go to college with, on an American bus with a legal issue and local charter; I got on the bus and paid my fare and went to Spain; and in that Brigade there were some Italians, some Americans, quite a few Frenchmen, a few English, and one Irish boy; we went there together; And I went home again in 1937, just about the time that the Abraham Lincoln Brigade was being formed.

Returning to this country, I went to work for various unions in minor capacities at first, and then I got this job with the IOWU, which I kept for some years.

I noticed in Younglove's testimony, which was quite extensive, and I recognize the man from having attended several CIO Council meetings which I attended for some years, and also a rather active member, he charged that I talk a great deal; probably I talked too much at the CIO Council meetings. I notice I was an active member of the St. Louis Veterans' Committee, which is a subversive group. I don't know what that is. I never was a member of the St. Louis Veterans' Committee; I could not have been a member of the St. Louis Veterans' Com-

mittee because I am not old enough and wasn't in the World War. That is an open group; many people having been members. It should be remembered as sheer rot.

If you will note, in one of these analyses that Lloyd picked up, it says here in July 18, 1945,—and the date I can't quibble with, because how can anybody
129 remember what he was doing on July 18, 1945? I can only quibble with the content, that I was supposed to be at a meeting at which I said the Communist members were willing to fight for the admittance of the Negroes in the shop. I worked at Ferguson from 1943 to 1947 just shortly prior to the strike. Ferguson was a tool and die shop. We never had a question of a Negro there. A porter cleaned up. There never was a question of Negroes there. I can't think of any reason for discussion by me at that time, in a shop of some twenty-five or thirty people, where even the porter was a member of our union, a member of 1345, and the tool crib also. We were working in an automobile shop up to 1947, and thereafter they moved us up to the Match building, and there was never a thought of Negroes in it.

I note here in 1945, in June now, I am told that I was at a meeting where I discussed the question of changing the name of the Communist Political Association back to the old name of Communist Party. "Friedman attended a meeting of the Tom Paine Club of the CP at 1062 Hamilton Ave., St. Louis. The discussion was on the resolution to change the name of the Communist Political Association back to the old name of Communist Party. Friedman told those present that CPA resembled Socialists and lessened the real leadership of the Communists." As a matter of fact away back in 1939 in St. Louis—that is on open record, too,—I had a large falling out with a large contingent of CIO whether we should support England in trouble with Germany, and I was denounced at that time. At this time one of the men who was there is a good friend of mine. I don't admit that that content

is consistent with my life as it is. I find nothing in here that can be traced by any degree of accuracy, by any honorable person, or any member of the Union, as
130 as all of you men know me for years; I have been on this floor hundreds of times; somewhere along the line I would have slipped; somewhere I would have given an idea to anyone that I was not what I seemed, somewhere along the line. It is an elaborate conspiracy which has been brought to you, by hearsay testimony in some instances, because you note when Davis came in, he did bring Davis to quote what Korhammer told him; why didn't Lloyd bring Korhammer in? Speckmann said this man—said this or that person said that; he either got "Perk", as he called him—and I will explain about him in a minute—in a corner alone, or I got him into a corner. Did you notice how significant it is that people I have been with all had their wives with them? Did you notice how indicative it was that wives' names were mentioned? I did. This guy "Perk" is a member of the I. A. of M.; he was; I don't know whether he is now, or not; he was a member of 1345, working at Omaha when I knew him, and they went on a strike; and he was a Rhodes scholar; as a matter of fact he was. I heard about him from the Socialists in the Lodge. And he and his wife did attend one meeting of the Educational Committee, and I was present at the time, in my home, and they did discuss economics; and they did discuss economics during the job shop strike, because they were interested, the men were, in finding out how to check on the value, on the net worth, on the profitability of the companies in which they
131 were involved. Every officer of the Lodge was invited; some of them didn't attend. We had meetings not only at my home on occasion, but on occasions mentioned, attended by hundreds of our Lodge, literally hundreds at different times, there were meetings at the St. Louis House, where we paid five to seven-fifty for a room for a meeting. At that time the Lodge was on the

verge of job shop trouble. We had had one meeting in '46. In '47 they were coming to a head, and the people knew job shop benefits for them had gone on; we would have had to borrow money or cut the benefits down; and that is why, based on the monetary situation, we had meetings. We had meetings at home. We play canasta on occasions. I played Canasta with the Kutiers. I don't suppose I could prove that we didn't discuss whether we furnished money to Russia; I couldn't put a single finger on a single tangible thing that I could recall.

Now, two different handwritings on this photostatic membership card. I have never been a tool and die maker, yet one of them has my occupation scratched out. I have 742 North Euclid, and 5842 Degiverville, although I didn't move until 1945, although this membership card is dated 1944. Just some of the evidence, as I see it, looking at it just for the first time, although I will admit I started purchasing the place in 1944, by the time arrangements were made it was 1945, and I have been living here since then. I notice here I subscribe to the Daily Worker.

I don't. It is the Sunday Worker; but it is the same
132 sheet. I reported to the Lodge in 1945 before the Union, explaining I was going to subscribe to everything so I would know what was going on.

Some of this might sound disjointed.

I also point out that I never heard of and never knew such a fellow as Marcel Smith. If anyone had been at Joe Fite's house he would know it is impossible to string a recorder from his dining room to the front room; it is a very small house, and it would be impossible to string a recorder from his dining room to the front room. And he doesn't even have a radio. I have played Canasta at Joe Fite's house, in his kitchen in Joe Fite's house.

Did you notice Younglove mentioned a whole lot of numbers? I didn't list the numbers, except I noticed they were in sequence, and mine came last. If I was such a big shot in the Communist Party would mine have come

last? And Younglove testified before the Brewery Post of the Union, and said the biggest Communist was working there; and he meant me. I want to point out that Younglove by his own admission is a contractor of concrete and cement work, and by his own admission he is speaking five or six nights a week. I want to point out there he said I was the biggest Communist in St. Louis. He says he attended meetings which were closed and locked. If they were closed and locked, how would he know whether I was there, or not? How could I disprove such a thing?

133 Looking at it from the standpoint of a defendant, the burden of proof is resting on me. I am being asked to defend my life almost, from ten years of constant activity in the Union. Notice some of this time is listed. If I could analyze these dates, go back over the records, I might even find some of these dates were inconsistent with times when I was at the meetings here;—not here, but at the St. Louis House. When did we move from the St. Louis House? I would like to ask that question of you.

Mr. Weber: November, 1948.

Mr. Friedman: When did the Communist leaders go on trial? Wasn't it December of '48? I don't know. Didn't that trial go on until the spring of 1949? Yet didn't Speckmann say I asked him to donate twenty-five dollars to the defense of the Communist leaders during the time they were on trial?

I just want to point out those things. It is a thing a guy has to be able to catch to go on with things of this type.

If I happen to be connected with a deep conspiracy for the purpose of seizing power,—I am using them without Loyd using them,—the inference is there, that I am seeking power; and I leave a good job with the IOWU and start to work in the shop, and after two years I start with my purpose of moving in. Would I have refused to sign an anti-Communist affidavit in 1947 on such a basis?

134 Would I have thrown stones in my path? And Bob Bobel, who came to me and said, "We are looking for an agent in the Union. We know all about you. We know all about your activities."—I suppose that was my activities with Bridges' union. He says, "Come on up. We can use you." I was still an apprentice. "Come up and talk about it." I went up. Dressner had recently turned down the offer to be a representative that was going to be hired at that time. If I was seeking by conspiratorial methods to infiltrate this union for purposes beyond the ordinary ambition of an individual, would I then have placed stones in my path? Would I then have gone through the mechanics of having refused to sign an affidavit in '47, or would that have been a foolish move? Certainly I have never been accused of being foolish. Would that have been a foolish move? I told Lloyd about it in advance. Nickerson was at the meeting when I refused to sign. And Lloyd said, "But they will call you a Communist, Al." I said, "They may, but that does not change the picture. We can't quibble with the executive party because they have the authority, but I can't humble myself." If you will remember Tom O'Meara, who is now in California, refused to sign. At the same time people who are said to be Communists here did sign in '47. Ray, I don't know whether he was; Korhammer. I know Mussler did replace Tom O'Meara but refused to sign in '47.

135 I want to point out that Robert Shrenk did appear in town and the officers did meet with him, and it was reported to the Lodge afterwards, and it is on the Lodge records and minutes; that Robert Shrenk did appear was reported. I don't know why he had Whitey with him. Not only the officers but the chairman of the committee were present, and there were at least fifteen members, officers, at Mussler's house.

Why didn't I turnaround and sign a Non-Communist affidavit in 1948? I will tell you why. After I refused to sign rumors came thick and fast, and Ed Petrekovich

and Jack Becklage and others said, "Al, you made a mistake. You should never have given up your office under such circumstances. They are misconstruing it. Will you consider running for office next year?" I told Ed and the others I was willing to run the next year. I went to the Grand Lodge convention the next year, and Schrenk was giving a great going-over, because it cost us some money. Schrenk later was tried by his Local also; Lloyd said he was expelled; I didn't know that. I only know the Convention gave him a rough road, and the courts evidently thought they gave him a rough road, too, because they overturned the convention.

The Western Cartridge: That is an interesting story. Lloyd and I worked together very closely, and honorably, and logically. It wasn't Lloyd doing anything wrong; I am not accusing him of that. You will remember in '45 the District was doing pretty good. Right after the President announced the War Labor Board had announced there was a significant change in the wage policy, we started negotiations in 1945 and completed the negotiations in February of 1946, and our first big wage increase in 1946 twenty-one cents—twenty-one cents to the construction workers. Thereafter we walked into the job shop owners, and decided they were being made fools of, and after a little heat they decided a strike was all they wanted, and they got it. We struck from February to May, and got paid; there were several holidays during that period of working together, the Western Cartridge Company, where we had a very weak, embryonic union working with the company, and the U.E. had a slight hold in the brass shop, the casting shop, U.E. using some of those to demand an election in the U.E.; and as I discussed with Lloyd at that time, not would U.E. beat us, but would there be any union in the plant at the time? That likely they would put all the unions out of the plant. I talked to Lloyd, and he said it wasn't decent to do that; that they should have given them a little, a few more things they wouldn't gain by,

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and if the U.E. was as good a bunch as they said they were, they would agree with him. And I called up Shaw, who was a steel organizer, whose name is in here. I said, "Look, Shaw, if Sentner is interested in unionism as he says he is, and if you guys aren't talking out of both sides of your mouths at once, you ought to get out of Western Cartridge." I called him on the phone. He spluttered for awhile, and he said he would talk to
137 Sentner about it and call me back the next day.

And I talked to Lloyd about it. And he called and said that he had talked to Sentner about it, and have agreed to pull out of the Western Cartridge. We organized Western Cartridge, and have a pretty good set up. I want to point out that I was a member of the District Directors here at that time. Lloyd called up and wanted to know if you want to know how it happened. I said, "No, it is all right. It was a pretty good job." I certainly didn't do anything against the I.A. of M. I certainly wasn't subversive. I didn't do anything against the I.A. of M. all that time,—where Sentner, if you read the newspapers, was not only in danger of being knocked over, and they were losing the jobs.

And I offered Speckmann, a youngster, a job in the U.E.! It doesn't hang together.

Let's talk about the Progressive Party a moment. I don't know whether you remember that, or not. Lloyd said I was a member of and a ward committeeman of the Progressive Party. I was. There were three members there. I am not sorry about it. It was a democratic right idea. It doesn't indicate I am a cheap-going Communist. If I were a Communist, I would have got more votes in that Ward. I want to say I couldn't vote for Truman even or Dewey. I doubt if I can do it again; so if you find me in the Prohibition Party in 1952, don't be surprised. I don't think a Progressive Party will be on the ballot this year.

And, as I said, they have the St. Louis Veterans'
138 Committee listed. I could not have been on the St.

Louis Veterans' Committee. I am not a Veteran. I wasn't in this War.

Russell, I say, only testified to what Korhammer said. My question about that is, why didn't Russell or Lloyd bring Korhammer in?

I am supposed to have corrected Perkins, who conducted that one session in economics during the job shop strike. Freddie says Perkins said capitalism was defunct. It sounds hardly like a Communist who would say capitalism is defunct if he is trying to organize to overthrow capitalism. I don't see how they would talk about—I don't know whether he talked about capitalism, or not. I think they talked about economics, and Dun & Bradstreet's reports. I had a number of Dun & Bradstreet's reports. So we can get to pictures, but it doesn't stand good that a Communist would be trying to overthrow capitalism while he was saying capitalism was defunct.

We will go into this case of the C.P. lining up this job at Loose Leaf Metals. I will call Freddie back in a minute. Freddie was working at the brewery.—He didn't tell you that—he had a pretty hard job at first, and organized it pretty well. Lloyd knew it. The Aalco Valve had been organized, and they had a pretty hard go there. Freddie was a young fellow, aggressive, sometimes overly aggressive, but young enough and good looking enough that the gals went for him, and by waiting until the bonus
139 was over, so people wouldn't use the bonus payment, starting right after the Christmas holidays so people wouldn't be too strict about talking about it, we organized Aalco Valve between December and March of that year. Freddie did a pretty good job. And at that time three organizers were going to be elected, and I spoke to Lloyd, and said "He is a young fellow, and a pretty good organizer, I think he would be all right for a job. What do you think about it?" Lloyd said to put his name on it. He didn't say he would vote for him. Freddie didn't win. It was a sizable vote, four or five candidates; I think at

that time we elect three other men. Freddie was released from Aalco Valve. The circumstances I don't recall. It may have been simply a layoff, but the main reason was, he was overactive pursuant to his union activities; and he was in pretty bad straits; he has a kid; maybe he has two now, I don't know. He talked to me about it. Jobs were plentiful, and Freddie went to work on the swing shift at the brewery, and he was there about a year, and complained that he was losing his touch with the people, he was in machinery, no longer a tool maker, and getting out with his old lady. What could we do about it? I called Charley Korhammer and said, "Do you have a job for a top young man who is just finishing his job at Aalco, but could learn." He said "I don't know. Send him out." And Freddie goes out there, and dickers around and gets a job at the Loose Leaf. Now, the fact he has the job at the Loose Leaf, I mentioned it to Korhammer I probably could bring in the cases of other people wanting jobs.

Note, now, I was out of work repeatedly, especially after the job shop strikes. Seven weeks, eight weeks, fourteen weeks off on strike; and I didn't use the C. P. to get me a job with Korhammer, but I used the C. P. to get Speckmann a job with Korhammer. It is things like that that make me wonder about this whole thing.

I offered Speckmann a special kind of C. P. membership he said; no card; just dues. And yet here we have cards. Younglove made a big point of listing the cards. That is not consistent.

Sentner. Oh Sentner! Yes, Sentner came to my house one time. There were fifteen or sixteen membrs of the Lodge including Sentner. I checked back after it came up. It was job shop strike time. All the meetings in the home occurred mainly during the job shop strike. Toolmakers at Wagner; toolmakers at Emerson, and Carter, some of the toolmakers had got together and put some dough up for strikers. If you will remember, we administered the

strikers' fund from three places; the Grand Lodge workers, and the foundry fund, they put up some dough, and Bill was trying to make capital of it. And the night the people were there he said—and he called me "Al", "I have another check of the toolmakers from Wagner; do you want me to mail it or give it to you?" I said, "No, put it in the mail. There are some people at the house tonight. Come and talk to them." I said "What do you want to do,
141 rob them?" He said, "Oh, no, it is just folks at Carter's." And I said, "Do you want to bring it out?" He said, "Yes." Sentner came out, and spent about ten or fifteen minutes, and talked about how all the good members ought to stay together, smiled, and talked, presenting a pleased appearance the best he could, and proved he wasn't an ogre I guess. Bill had his own private deal on his mind I am sure. I worked with him in the CIO; he is a clever man. And then he took off. He had his wife with him. If I were a Communist do you think, in view of the charges which the job shop owners had leveled at that time, in view of the rumors which swept the district after they went to work in 1945, do you think I would have had Bill Sentner at my house, or do you think by conspiratorial methods I would have secured all of those things?

Do you think these things Lloyd mentioned are evidence of conspiracy, or open things? Do you think if I were heading a devious plan that I would have refused to sign a Non-Communist affidavit? That I would have had Bill Sentner at my house? That I would have had meetings at my house of the kind we had, dozens of them? We had some at Tom O'Meara's house, too. His name wasn't brought up. I mean as I examine these things again, I want to repeat: I have no way of answering them. A simple denial? You guys know me. You don't know Younglove. A simple denial? You have to take it on faith. A guy like Younglove, he isn't a toolmaker. What are his plants? I don't see him making a living as a cement

142 and concrete contractor. I don't see it. I don't see him working six days a week and testifying too. Why hasn't the Justice Department been after me for perjury? Why wasn't I arrested for breaking the laws of the Land? Why wasn't my name brought up in the trial of the eleven? Why is it brought up now, when it is finished? What is the sendoff here?

Younglove I think was a gas worker in the CIO Council. I never heard him speak. This is the first time. I spoke many times as you probably will recognize in the CIO Council. I don't think it is indicative that he couldn't recognize me,—not a distinctive looking guy, as my wife tells me.

On one occasion they say I went with Marie Kutier to Chicago; no dates mentioned; just the statement. I went to Chicago twice in the past ten years, both times with my wife, and both times during my official vacation from work. If I had ever gone to Chicago with Marie Kutier I would be a dead pigeon; I wouldn't be here.

I want to point out in the 1950 election campaign Lloyd had a woman testify, she was a trustee of the Lodge at that time, that she had heard me addressing a meeting in New York at sometime; she had a date, which we checked up on at that time; it was the week I worked seventy-four hours at Ferguson; I had the paychecks to prove it; and yet I was supposed to be addressing a Communist meeting in New York, and this woman testified to that. It
143 is a thing like that that you can't check back; it took two months to get the paychecks at Ferguson. I don't know whether this woman is still a member of the union, or not.

And yet I notice nothing has been said about me being a member of the Communist Party now. The inference is: Once a member, always a member. At the Convention they had a man named Irvin Brown from Europe, a good speaker that got up and said, if you quack like a duck, walk like a duck, and act like a duck, you are. I ask this Committee, do I quack like a duck, walk like a duck, and act

like a duck? Is there one thing that happened in the meetings that could be construed as Communist? Is there one single thing that was dragged out that could be construed as Communist? No, of course not. The meetings of the Lodge were expedited, and waste motion was eliminated. Everybody knows that. Did we ever become accused of acting in our own behalf? In fact I am told that Lloyd has said to people—I couldn't prove those things because I wasn't there, and it is hearsay,—"There must be something wrong with the guy"—a guy like me because I don't want to be a business agent, and it applies to the same thing, when he says I left the IOWU, which pays seventy-five dollars; terrible. It is difficult to understand. It doesn't sound Communist to me.

He makes the point of never having heard me deny being a Communist. No, I never have got up in the Local Union and denounced it or made a talk about Communism. I know the music pretty well. I worked in the CIO for several years. I also never got up in the Union and denounced Communism. I never got up in the Union and denounced anything I don't believe in. My work has been confined to my duties. I never got up and gave you any junk about the local policy or foreign policy. I never got up and talked about the Negro. And, not having denounced Communism, it is tantamount to saying: he didn't talk about Communism. Which is true. I never have done that in the Local Union.

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Ray Kutier, and his wife, Clyde Ray, Joe Fite, and Korhammer: I notice now that Mussler has been brought into it, although Lloyd's charge only listed two,—however that is not important,—have been named as so-called Communists. Isn't it indicative that these four people were the ones most active and likely mostly in the hair of the job shop people in the strke of 1947? Isn't it true that Ray Kutier was on the job shop strike? Isn't it true that Marie Kutier is accused of being a leading Communist, that she was the worker behind Ray's workmanship, and

when hundreds of checks were going out each week to the men on the line, isn't it true that Korhammer was the one who was to sign the checks with Ray Kutier according to our Constitution and By-Laws? Isn't it indicative that Win Mussler, who I thought after several years when another question of organizer had come up, had shown real ability, and willingness to work, and devotion to union and union duties, and Speckman, who was always too
145 busy to attend union meetings, whose homelife was circumscribed by a young wife and kept at home, and didn't want Freddie out in the evenings, and who missed most of these meetings we talk about, and how, two years later when we had a question of an organizer come up, and when I suggested Win Mussler to Lloyd, Freddie was furious because he had a private deal with Korhammer to be made the organizer; he was a steward at that time working under Korhammer at Loose Leaf Metals; Loose Leaf was on strike at the time; so I suggested Mussler on the same basis that I suggested Speckmann, simply on the basis that the guy had more on the ball, more devotion than Speckmann, so Speckmann decides that it would be very simple to include Win Mussler in such a group, it seems to me.

I am trying to think. Tom Paine. That is 1944, the time, as I understand it in my subsequent investigation the Communist Party was not in existence. The Tom Paine Club is listed, I guess, in the document here as a subversive organization. (Examines exhibit.) But it is not in St. Louis that this Tom Paine Club is listed; it is Westchester, New York, and Philadelphia, Pennsylvania. I don't see any Tom Paine Club listed here, and I am not too much interested, because the first time I heard about the Tom Paine Club was 1949, I know, during the time of the election campaign. I want to point out that Speckmann got up at that meeting,—and it is recorded,—and announced that I had given him a book,—it is a worse crime,—
146 called "Tom Paine". I did. I have the book. Tom

Paine, as everybody knows, was the chronicler, the historian of the American Revolution of 1776. Howard Fast, who has been fairly well established since then as the Communist who wrote the book. I suppose that is the idea, if I read a book that was written by a Communist, I am a Communist. I bought the book at a drugstore for thirty-five cents on the shelf. I have it yet. Howard Fast, who was a Communist, wrote a good many books, of which that is one. Yet Speckmann says that book was given to him by me to show there would be a linkup between that and the Tom Paine Club of St. Louis.

Recalling these matters, take note of the numerous rumors, innuendos, the few statements, the implications.

Oh, yes, Speckmann tells you I gave him a book by Karl Marx. He says he returned it, but that makes it convenient so he can't produce it, you see. I have a book by Karl Marx, it is about as big as a Merriam's Dictionary. I don't expect you would be able to carry it. I inherited it from my grandfather. It is in German. That is beside the point.

Oh, yes, Korhammer's story at the bar. He came to me at that time; Korhammer told me about it. And I went to Weber with it when I was offtime. I am not accusing him of misconduct. A little bit "high" at the St. Louis House, having trouble with the boys at 688. We reminded he worked for us, and he didn't like it. Weber told me at the time we were too smart about him. He said, "What about you Communists in 688, you and Kutier and Friedman?", he says to Korhammer. Korhammer says,
147 "Yes, and what is more, my uncle is." I jumped on him about it. He says, "What in the heck do you expect a guy to say?" I don't know whether Charley has a Communist uncle, or not. I know when it was reported to me, it was just another indication of the weight that was being put on the stuff.

And I would like to call Fred Speckmann back first for a few minutes, just for a couple of questions, unless Lloyd

wants to take it from here since I have spoken this time. Do you want to make any further statements, Lloyd?

Mr. Weber: No.

Fred Speckmann.

being recalled to the witness stand, upon examination testified as follows, to-wit:

Cross Examination

By Mr. Friedman:

Q. Freddie, did you work at the brewery, ever?
A. Yes.
Q. Anheuser-Busch?
A. Yes.
Q. How long?
A. About eight months.
Q. What kind of shift were you on?
A. The third swing shift.
Q. Did you ever telephone me from the brewery?
A. Yes.
Q. Several times?
A. A couple of times.
Q. Can you remember the gist of those conversations?
148 A. Yes.
Q. Well, perhaps that is difficult. I can't remember even a lot of occasions. Skipping that question, did you like the swing shift?
A. No, not particularly, no.
Q. Did you like the money at the brewery?
A. Well, naturally you like the money.
Q. Did you have any particular dislike of the swing shift for any particular reason?
A. Yes, I didn't like to work the swing shift.
Q. Did you like the type of work that was done at the brewery?
A. It was all right.

Q. Did you prefer to work—

A. I preferred to be with my trade if I could be.

Q. Did you ever talk to me at the time of the working at the brewery about how you would prefer to get back to the tool part of the trade?

A. I recall talking to you about the difficulty I had sleeping; and you told me that you were used to those sort of things, and that if I would accustom myself to those, I would get used to it. I don't recall specifically saying I wanted to get back to the trade to you. I recall talking to you that I didn't like to work the swing shift; that I couldn't get used to sleeping.

149 Q. Were you still working at the brewery when you went out and applied for the Loose Leaf Metals job?

A. That was my day off, yes.

Q. Whom did you see when you applied for the Loose Leaf Metals job?

A. A guy—I don't know—Kenny, and they brought out Korhammer; he was the boss that interviewed me.

Q. How long did it take between the time you applied and the time you went to work?

A. I was told to go to work practically the next day.

Q. What did you do when you got into the Loose Leaf Metals, what kind of work?

A. I started out on a bench, repairing some dies on slips.

Q. You were at Loose Leaf for how many years?

A. Until the strike of 1949.

Q. While you were at Loose Leaf did you ever apply to that company for a different type of job, other than that job?

A. No.

Q. You never did?

A. No.

Q. Did you ever apply for a sales job with that company?

A. No.

Q. You didn't?

A. No.

Q. You didn't talk to the personnel manager about a sales job with the company?

150 A. No, I didn't.

Q. You are certain you never talked to the personnel manager about any other job, other than tool job?

A. Yes, that was the highest-paid job in the place.

Q. You didn't offer to become a traveling salesman for them?

A. No, sir.

Q. Okay. Do you remember the officers' meeting at which the question of the organizers candidacies of '49 was discussed? You were present? It was in what is now the Teamsters' office of this building. All the officers were there.

A. Yes.

Q. Do you remember the gist of that meeting?

A. Yes. And I remember some other things, too, previous to that meeting.

Q. Will you tell us in your own words the gist of that officers' meeting as you remember?

A. Yes. The gist of that officers' meeting there was the fact that I was called that evening on the phone by Wm. Mussler and told I should be there at that meeting; it was very important that I be there. I was called a little bit earlier by you and told to be at that meeting, too. When I got to that meeting there was a discussion of agenda, and I asked that the first thing to be put on that agenda was to discuss strike benefits for the foremen who were staying out on the strike. And there were some things you suggested being put on, and that was the organizers to

151 be put on the staff that was to be discussed at the next meeting of the Lodge. When it came up the proposition I had suggested putting on the agenda was put last, and the first was the attitude of 688 would take as to the organizers. And during the discussion we discussed

different things that had gone on, and your past experience with Lloyd Weber, and anyone who would take this job, anyone who would get it, would have to sell his soul to Lloyd Weber. And you had talked to some of the officers, and they felt Win Mussler was the eligible—or the logical candidate for that job; and you began talking about it in that manner. And finally some of the officers said, "If it is that kind of deal, why would we propose anybody to take the job?" And at that time you turned around and made the statement that if it looked like I would get the nomination, you would back me; and if it looked like Win Mussler would get the nomination, you would back him.

Q. All the officers were at that meeting?

A. Yes.

Q. And they all heard me say you would have to sell your soul to Lloyd Weber?

A. That is right. That was back in '49. Prior to that you had contacted me out on the strike picket line at Loose Leaf, and you and Win Mussler suggested me getting in the car with you at the time, and you proposed Win Mussler should have the job. And I told you I thought I was just as good a guy for the job as anybody else. And
152 that is when you told me you felt I shouldn't take the job; I should leave it for Win Mussler.

Q. Was Mussler there, too?

A. That is right. It was in his car, a Hudson.

Q. Do you want to tell the Committee anything else you remember before I go on? You see I am not trying to suppress anything you may tell them.

A. Oh, yes, there was one other thing that came up at the officers' meeting: this discussion about the foremen to get strike benefits. It was proposed that a committee would look into that, and it was discussed that they would meet at Korhammer's house in the evening; and Win Mussler was supposed to be on the committee, and Korhammer, and a fellow, Walter Tromp; he was on the picket line; and it so happened when they got down there Win Mussler

couldn't make it, and you came instead of Win Mussler; and you spent quite a lot of time on the davenette discussing this organizer's job, and trying to dissuade me from taking the organizer's job or going after it. That is about all. When Tromp came we turned on the question of the picket line and strike benefits for the bosses who had stayed out of the plant, and who were members of the union.

Q. Had you ever had any trouble getting out in the evening, so far as union meetings were concerned?

A. Well, my wife didn't like it.

Q. Would you say you had attended, during the
153 period of several years, almost all of the officers' meetings that were held?

A. I wouldn't say everyone of them. In the first part it was very irregular. I mean I wouldn't say it was right on the beam every meeting; but it gradually became that I went to every meeting, practically every meeting.

Q. There were meetings, however, to which you were invitd which you didn't attend?

A. Some, yes.

Q. Do you have knowledge that any officer was not invited to any specific meetings?

A. Yes If you are discussing just officers' meetings, or these meetings which I had talked about before as a small group?

Mr. Friedman: That is all, Freddie.

Re-Direct Examination

By Mr. Weber:

Q. When you were a candidate for organizer the first time did you have the support of Friedman?

A. Yes.

Q. Did you have the support of the other members of the Lodge in this group?

A. Yes.

Q. Do you have any idea why they didn't support you the last time?

A. Well, I had dropped off in the meetings of this group I had talked about, and I was called on the phone
154 and asked why I wasn't attending them. I told them I was busy and couldn't attend them regularly right then. And he warned me from speaking to Ed Petrekovich, because he told me speaking to Ed Petrokovich, he would give me wrong ideas, and I should stay away from talking to that guy because he would affect me.

Q. Freddie, when you were testifying here directly, you testified that Friedman told you that the Party had directed Korhammer to put you to work at the Loose Leaf?

A. That is right, he told me that on the phone.

Q. You are testifying to what Friedman told you; is that right?

A. That is right, he told me the Communist Party directed Korhammer to put me to work.

Mr. Weber: That is all.

The Chairman: Q. May I ask you if he definitely said the Communist Party?

A. He said "The Party". And by "The Party", they don't always say the "Communist Party" every time it is discussed.

Mr. Weber: Q. Of that you are sure, it was the Communist Party?

A. That is right.

The Chairman: Q. You were aware of that?

A. Yes.

Q. And of your own knowledge you knew that is
155 what he was speaking of?

A. That is right, and telling me that the Communist Party was securing the job, it was to make me feel indebted to them.

Mr. Friedman: Q. Was that on the telephone?

A. Yes; we had a lot of discussions on the telephone.

Q. Did you apply for any other job before the Loose Leaf job came up?

A. From the brewery?

Q. Yes.

A. Yes.

Mr. Friedman: That is all.

The Witness: Any other questions?

The Chairman: That is all.

Witness excused.

Mr. Friedman: Lloyd, you may tell Rus. that I won't need him anymore. And ask Younglove to come back a few minutes, and that will be it, unless you want Rus back.

Thomas Younglove

being recalled to the witness stand, upon examination testified as follows, to-wit:

Cross Examination

By Mr. Friedman:

Q. Did you ever hear me speak in the CIO Council?

A. I am not sure whether I have, or not. If you
156 have I don't recall it at this time. At this time I don't.

Q. Can you tell me something about my activity in the St. Louis Veterans' Committee?

A. You were referred to in our meetings as being active in that meeting with Roy Cope, another known Communist, Marcel Smith, another known Communist, and others that the names doesn't come to me at this time.

Q. What was the nature of my activity?

A. Organizing the Veterans of World War Two on a march to Jefferson City, demanding a bonus.

Q. What were the dates of that?

A. Now, I don't recall those dates.

Q. The year; the approximate date?

A. Approximate dates in my estimation, a shotgun guess at it, is 1946.

Q. In other words, you had no personal knowledge of my activity in the St. Louis Veterans' Committee that you refer to?

A. Now, my knowledge of that comes from our meetings where we planned the course of the St. Louis Council; before that union met the Communist delegates and the Communist CIO members planned the course of that meeting; what motions to make, the same as you did in the Machinists group. You know the teachings we all had, the infiltration tactics, and in our city meetings, and in our planning meetings, where we were taught how to divide and conquer; strike in the least expected spots; and
157 the enemy, and that was the American people. Your name was mentioned many times.

Q. Where did this St. Louis Veterans' Committee meet?

A. At one time they pitched a camp, a tent, on the grounds of the City Hall.

Q. And I was an active leader in that, was I?

A. You are questioning me, as an active leader. I am telling you from the reports we got from the various meetings we had that you were very active in that group

Q. Did this march to Jefferson City ever take place?

A. It did.

Q. When was that?

A. In the same year that—

Q. '46?

A. To the best of my recollection it was '46. Now, it could have been '47.

Q. Would you say that your records indicated I had been a member of the Communist Party prior to your official activity in your underground work?

A. Now, Mr. Friedman, I don't understand your question, referring to my records. My records is my mental recoliection.

Q. Would you say, that since a lot of this is based on your mental recollection, that I had been a member prior to the time you became active?

A. Yes, from the statements that have been made, I heard that you had volunteered and went to Spain and fought with the Abraham Lincoln Brigade in Spain.

Q. You heard that?

A. Yes.

158 Q. How were membership cards issued in the Communist Party at that time?

A. Was that before you went underground and started to discontinue the issuance of membership cards?

Q. That is the first I heard of that. Tell us.

A. I will be very happy to. When the Communist Party went underground,—and my explanation of "underground" is not that they are going to hibernate or do nothing; we did hear from them every day; but "underground" means they are not going to use the mails, or use the phone; that the names is the only thing that is going to be used; and they are safeguarding the members; they don't issue membership cards; they haven't since 1948 if I remember right; mine has not been issued.

Q. You say the Communist Party went underground in 1948?

A. Listen! They went underground in 1933, if you want to know the truth.

Q. Would you say this existed since 1933?

A. No, it was known then as the Communist Political Organization.

Q. When did the Communist Party stop using the mails and the telephone?

A. I don't remember the exact date.

Q. Would you say it was 1948, or thereabouts?

A. I can remember back in 1945 and '44 when
159 Ralph Shaw said don't use the phones for certain things.

Q. Thank you. And you say I was a trusted, respected leading member of the Communist Party by your previous testimony?

A. You were.

Q. Would you say I was a smart member of the Communist Party?

A. Now, what do you mean by "smart". I don't follow you.

Mr. Weber: I think that calls for an opinion.

Mr. Friedman: I will withdraw the question. I am not trying to put the man on the spot.

Q. Let's put it this way: Would you say that I was—based on your recollected records, that I was a knowing member of the Communist Party?

A. Known of?

Q. A knowing member of the Communist Party? A member who knew his way around the Communist Party?

A. Oh, yes, my opinion of you is that you were well-schooled; you had read all the books; and you had meetings in your home when Haveland Perkins and Clara Perkins taught there.

Q. Were you there?

A. I wasn't there, but the reports came back to our city meetings.

Q. Was I at the city meetings?

A. Now, I am not sure—I am trying—When I
160 speak of things, I speak of when I can visually see you at those meetings. I have seen you there, and I am trying to think if they were city committee meetings.

Q. What other type of meeting did you have?

A. Organizational meetings they could have been. They could have been the FEPO meetings.

Q. What meetings are the FEPO meetings?

A. That is a front organization, or it was, and every member of that organization were members of the Communist Party, except one, who was Doctor Bracy's wife. And we massed five thousand people at that auditorium in support of the FEPO.

Q. What do those initials mean?

A. The Fair Employment Practice Committee.

Q. Would that have something to do with the Negro question?

A. Yes. Will you let me continue?

Q. Go ahead.

A. And that was a complete disappointment to the Communist Members of St. Louis; they hoped to have a race riot that night.—

Q. Well,—

A. Listen! You are using the Communist tactics you were trained in and I was trained in, to get up on the floor and interrupt. You had that training.

The Chairman: Let's keep it to the subject.

A. To bring on a race riot in Market Street; to
161 bring it as it was in 1933 at the Relief Center, and I say it was at 21st or 23rd and Chestnut Street.

Mr. Friedman: Q. Was I ever at a FEPO meeting?

A. I don't recall you were. As I say again, I am trying to fix it in my mind. I believe though you were at that mass meeting. I may be wrong.

Q. Where was that mass meeting?

A. It was at the Kiel Auditorium, or, rather, in the Opera House of the Kiel Auditorium.

Q. What date was that?

A. That was on or about Lincoln's Birthday.

Q. That would be in February of what year?

A. I don't remember the exact dates. I don't remember seeing you there.

Q. Where did these meetings that were behind locked, guarded doors, where did they take place?

A. 2841 Gravois; 1041A North Grand.

Q. You mention 1041A North Grand,—it says so here,—as the headquarters of the Communist Party. There were locked doors in this place, huh?

A. Yes; you know that.

Q. How many people used to attend these meetings where the doors were locked and barred?

A. All the way from fifteen to seventy-five I would say.

Q. How long did these meetings last?

A. They would last two hours, to as much as five hours.

162 Q. The doors were barred and locked, now?

A. Locked and guarded.

Q. Okay. Can you tell me the year when they were mostly being held?

A. When these doors were locked?

Q. Yes, the year the meetings were held?

A. Yes, since that Elizabeth Gurley Flynn came to St. Louis from the national office, and Bertha Gannett came and spoke, and the convention was convened.

Q. When was that?

A. 1946 I believe.

Q. The meetings ran anywhere from two to five hours, and the doors were barred and locked?

A. When they went from the Communist Political Association to the Communist Party.

Q. That was in the year 1946?

A. I am not going to say whether it was 1946, or just when it was.

Q. I am not trying to interrupt you. If you want to say something further, do so. Were these meetings held in the evening, in the afternoon, in the week days, Sundays, or Saturdays, I would like to know?

A. They covered every day of the week, depending on the nature of the meeting, and how urgent it was.

Q. What about this place on Gravois, what kind of place was that?

A. That was the Roosevelt Club, a trade organization, from which the trade union operated of the Communist organization, including the Shoeworkers' group, the
163 Railroad group, the Packing House Workers group, all the Communist groups.

Q. You saw me there?

A. Yes, I am pretty sure. I am very sure I have seen you at that meeting.

Q. Did I take a part in that meeting? Was there one meeting or many meetings of this Roosevelt group?

A. There were many meetings there.

Q. Was I at one meeting, or many meetings, or what?

A. I would say you were there at least six times.

Q. Six times? Were those meetings in the evening, afternoon, Sundays, Saturdays, or when?

A. Those meetings were in the daytime when we went there to receive our orders, for the leaflet to pass out, for our instructions, and our beginners' school, were held there, and our regular meetings most of the time was held in the evening.

Q. Were those doors locked and barred?

A. After it became the Communist Party it was.

Q. When was that? What date? When did it become the Communist Party?

A. Soon after the expulsion of Browder.

Q. What year? I am not asking the day of the year.

A. Well, I am going to say '46.

Q. Those doors were locked and barred in '46? Did the meetings last as long at this place as they did at this place on Grand?

164 A. Sometimes they did; sometimes they didn't.

Q. You mentioned leaflet passouts. What does that mean?

A. All right, I will tell you what it means. They put words in our mouths; we did as we were told to do with every outsider; we didn't talk back; and it was my orders and my directives, when I got a commission to carry out, I carried it out; and it was my duty as Chairman of the Roosevelt Club and organizational secretary to get the permits from the Department of Streets and Sewers. And one time the OPA, she went to the Streets & Sewer Department, and she got the permits for the Roosevelt Club to speak to the OPA; it was dated far enough ahead that the educational director had time to print the books we were to distribute, and also to distribute the leaflets for the mass meeting.

Q. Mr. Younglove, were you the chairman of the meeting I was supposed to have attended?

A. I don't recall if I was the chairman of the meeting

you attended. I do recall one meeting, and I can recall it very clearly, and I can quote you.

Q. I would like to hear it.

A. That was at 1041A North Grand, and you were criticized for not doing enough in the Machinist group; and you had a wonderful group; you were not turning in the shop stewards' names; that was your orders and my orders, too.

And you said, "Listen! There's no use to bump your
165 head up against a stone wall with a bunch of Catholics and reactionaries." You sure did.

Q. Are you quoting me now?

A. I am quoting you now.

Q. Finish the quotation and I will ask you further questions.

A. You said a great many things. I don't recall all you said.

Q. You said I was criticised?

A. Yes, by Helen Munsel.

Q. By Helen Munsel?

A. Yes.

Q. I take it she is a leader with the Communist Party?

A. She was the State Secretary; while Ralph Shaw was in the room.

Q. You said I was criticised a minute ago, and yet in your earlier testimony you stated I was praised rather extensively for the work I had done in the Machinists Union. Now, which is it?

A. You were criticised, and you were praised.

Q. Oh. You mentioned discipline the group had when you were Chairman of the Roosevelt Club, and how you didn't question orders, and so forth. How did it come about that I did question orders?

A. I don't recall that you ever questioned any orders.

Q. Giving you the benefit of the doubt, I may have
166 misunderstood you, but didn't you say I questioned the necessity of furnishing shop stewards' names?

A. You were criticised for not turning in enough of them.

You were also praised for doing a very active part in organizing.

Q. You would say I attended about six meetings at this Gravois address, and you say I attended how many meetings—would you say that you were personally aware of me attending at 1041?

A. I don't recall offhand now; but I know I am safe in saying,—I can say this religiously and truthfully, too,—that I have seen you many times. You have seen me many times; you know that; we have been at these meetings together.

Q. Will you answer my question?

A. I will say at least ten or twelve times at 1041A North Grand.

Q. How many meetings would you say it was necessary to hold here at the Progressive Party, and in making arrangements for this march on the City Hall and Jefferson City?

A. How many meetings? That is hard to say. I know I spoke to many meetings, and others did, too.

Mr. Friedman: That is all.

Re-direct Examination

By Mr. Weber:

Q. I want to ask a couple of questions. You testi-
167 fied here that you testified at the trial of Eleven Top Communists in New York.

A. I did.

Q. You were an accredited witness there, and sworn?

A. Yes, sir.

Q. You testified also that you had access to the C. P. membership here, the Communist Party membership here. Were you offered anything to testify here by me?

A. No.

Q. Do you expect anything?

A. I do not expect, and I will not accept if anything is offered.

Mr. Weber: That is all.

Re-cross Examination

By Mr. Friedman:

Mr. Friedman: In view of that, since Lloyd placed it in the record officially, I would like to retract my dismissal of the witness for a couple of more questions.

The Chairman: You may go ahead.

Mr. Friedman:

Q. Mr. Younglove, you say you are a concrete and cement contractor?

A. That is right.

Q. You have men working for you?

A. That is right.

Q. How do your jobs mostly come in? By telephone? I mean, if I wanted a sidewalk repaired in my back yard, how would I get in touch with you? Would I call your office, or call your home on McCausland Avenue?

168 A. You could call my home, like many others do.

Q. And I would probably get in touch with your wife?

A. No, I don't know whether you would, or not. I may answer the phone.

Q. You testified you were spending as much as six days a week in testimony about the Communists?

A. That is right.

Q. And you told us, however it points out, that you expect nothing and were paid nothing for this work? Testimony?

A. That is right.

Q. Were you paid anything by the Boy Scouts of Affton for your talk before them?

A. I was not.

Q. Did the brewery post pay you?

A. They did not.

Q. While you are testifying at all these other places who answers your telephone at home?

A. My daughter could answer it, or my wife could answer it, while I am away.

Q. And you find your business not suffering by reason of the six nights a week you are giving to this work?

A. No.

Q. One thing I forgot to ask you the last time, and I would like to repeat it. I asked you about membership cards, and you went off on a tangent that membership cards were not used since 1948, but I asked you about membership cards because you read off of the list which you have in your pocket, and I find my number is later than
169 the others of the socalled members of the Machinists Union which you have listed, and yet you testified that to your knowledge I was a long-time, trusted member of the Communist Party. How comes it that my membership card was later than other members of the Union whom I am purported to have recruited?

A. How do you arrive at that?

Q. You have here 94663, a number,—Take your yellow page out of your pocket,—and you have listed several other people by name; I didn't record the card numbers, but you read them, I happened to catch the numbers in sequence, and mine is the last, and yet I am imputed to have gotten other members into the Communist Party, and their numbers predate mine.

A. I don't know how the Communist Party arrived at giving men, or rather members, those numbers.

Mr. Weber:

Q. Do you have a different number every year?

A. Yes.

Mr. Friedman:

Q. A different number every year?

A. Every year.

Q. And these members you are purporting to have are for the year 19-what?

A. To the best of my recollection that was '46.

Mr. Friedman: 1946. Okay. Thanks, Mr. Younglove, that is all.

Mr. Weber: That is all.

170 The Chairman: You are excused then. Or may I ask you one question.

A. Surely.

Q. How did you get interested in this work you are doing?

A. I was—What work are you referring to, sir?

Q. These Communist activities that you were interested in?

A. Undercover?

Q. Yes.

A. The best I can say, sir, is, I think of my country, my home, and my church first.

Q. I know, but what I want to know is, did you volunteer for the service?

A. I did volunteer.

Q. You did volunteer?

A. I did volunteer, yes. And the Communists tried to get me to join for a long time; purposely I played hard to get; they begged me in, and I did join. We knew how hard they were. There were many tests I would have to go through. At that time that was the Communist Political Association. They didn't trust me. They didn't trust anyone. They did many tests to try to trick me. They watched my home, and watched others. And we had assignments. —

The Chairman: Okay, that is all.

The Witness: Are you gentlemen through with me for tonight?

The Chairman: Yes, I think so. That is all you

171 have to ask, Al?

Mr. Friedman: That is all.

Witness Excused.

Mr. Friedman: Lloyd, do you want to say anything before I go on?

Mr. Weber: No, I will wait until you are through.

Mr. Friedman: I purposely tried to list these numerous meetings I am supposed to have attended, because too much of a good thing becomes impossible of refutation. He had me listed at so many meetings in 1946 when I was superactive in the Lodge, when I was working ten hours a day, he had me listed at so many meetings of the Veterans' Committee, at this place on Gravois, on Grand, the various meetings we had that year, the Local meetings, the Lodge meetings, the District meetings, the Grand meetings, the shop stewards' meetings, that it was impossible, it seems to me, for one person to be in all these places at the same moment. You can't pin these guys down to any date. It was still '46, and we were still working long hours at Ferguson, and I will bet if I would check I was working the second shift some of the time from five o'clock in the evening until two o'clock in the morning. I could check that. I don't know for sure; I would have to check that. But it appears to me that two things stand out in that testimony: In the first place, I am supposed to be a person in six places at once apparently; in the second place,
172 a knowing and respected and trusted Communist Party member, who is not supposed to use the phone or the mails, mind you, since 1944 or '45, calling Speckmann and talking to him in 1949. Which is true? Either you are a Communist or not a Communist. You are either a respected Communist, or not a respected Communist. All of this was in 1946, before we had this Constitution. A trusted and respected Communist, who was under discipline; who sits in meetings behind locked doors; who can't refuse orders, yet who refuses orders; who speaks on the telephone about Communist Party affairs, despite the fact it was prohibited by the Communist Party. —By the testimony of an undercover agent. Remember, now, marching on the City Hall; camping on the City Hall; marching on Jefferson City. Lloyd said he got this from the St. Louis detective and the American Legion. And

yet they have no evidence of that here. So which evidence is correct, if any?

So I want to sum up like this, if I can, and I want to ask a point of procedure, too. In Lloyd's summation, should he bring up things that I would like to answer, I think I have the right to speak after he finishes. But I would like to sum up now, and give it to Lloyd. Should he bring up subjects I don't have a right to cover, I do think I have a right to answer the things he may bring up.

The Chairman: That is true I think.

Mr. Friedman: So in summing up I would like to say there is nothing within the activity of the Lodge,
173 within my activity as a Lodge member and Lodge officer, not one single solitary shred of evidence of any Communistic activity.

Second, nothing to substantiate the charge of my being a member of the Communist Party, except the inference: Once a Communist, always a Communist.

Third, nothing to substantiate the charge showing advocating, encouraging and abetting Communism, except the purported or supposed recruitment of four other Lodge officers.

I want to point out, in addition, that these witnesses are necessarily self-serving. I might point out that in those cases where direct evidence could be taken, it was not taken. Ed Petrekovich wasn't called. Charles Korhammer wasn't called. These things were done by hearsay.

I told Lloyd a long time ago, and I repeat, that if one single solitary thing that I have ever done in the Machinists Union, as a machinist, as an officer, as a member, were not for the best interest of the Machinists Union, I would not hesitate a moment, I would hand you my book and walk away.

I believe sincerely that nothing, not one single solitary shred of evidence, nothing I have ever done in the Machinists Union, are not shown to be in the interest of the membership of a strong organization. I deny categorically all of the dates listed in these letters as being false.

I notice another place, I am supposed to have a meeting here at 1062 Hamilton in the same year, '45 or '46.

I want to point out that this is not a matter at the
174 present time which can be lightly taken. I am not taking it lightly. This is not a question of a difficulty between an organizer and a business agent and a member of the union. This is a question of a man's livelihood, his citizenship, his family life. Were I a conspirator, arranging and devising a plan for capturing power in a union, infiltrating, as they put it, my life would give evidence. I started to buy my house in 1944; despite the fact it took a long time to get the front porch, I am doing pretty good. I have a wife and two children. I was born and raised in St. Louis. I am not ashamed of it. My children were born and raised in St. Louis. My wife was born and raised in St. Louis. I came back to St. Louis after Pearl Harbor voluntarily to be with my family. I don't find it obnoxious working in any shop. I don't think it is a come-down, coming from an organizer's job to a job in the shop. I enjoy working in a shop. Regardless of what I have done, no one can question my work.

I am not appealing to you emotionally. I am only saying: First, there is no evidence of Communism; Second, there is no evidence of being a Communist now, or since the time the Constitution declares it is illegal; Third, I don't have to disprove being a Communist; it is up to Lloyd Weber to prove his charge; the burden of proof is upon Weber. I am innocent until found guilty based on overwhelming evidence.

I would like to say I am not considered a dumb fellow by those who know and have heard me in the Lodge.
175 I would like to point out that were I a Communist, I would have signed a Non-Communist Affidavit. I would like to point out that Frank did sign a Non-Communist Affidavit in 1947, and if it was a part of the Communist Party to sign a Non-Communist Affidavit, I

would certainly have signed. The very fact I didn't sign is being used against me now.

The educational meetings we held in our homes are being used against me now. The value that the Lodge gave to the District, I am pretty proud of it; from 1944, '45, '46, '47, '48, '49, I am very proud of it; the strength of a group of men who could fight to make this district one of the best. Not without the business agents; the business agents helped, and the men in the Lodge, did the pressure of it. The men of the Lodge in 1946—1945 refused just prior to Christmas a recommendation of Lloyd Weber that we accept fifteen cents, and we got twenty-one cents a couple of months later after the strike in '46. I say the men in the Lodge helped push with the help of the business office; Lloyd Weber helped; I may say our success didn't come without effort; it came after long hours and much effort, where we harangued them for long hours, and got a little better, and we initiated and disbursed the strike fund. The District approved of it. I am not objecting to that. The Grand Lodge pointed it out. I still think it is the best District in the International.

I don't think that I deserve from the Lodge or from the District this kind of charge; however, I am happy
176 that it comes Constitutionally within the framework of the Union, and gives me an opportunity to answer it properly. That is all.

PLAINTIFF'S CASE IN REBUTTAL:

Mr. Weber: Mr. Friedman in talking awhile ago,—and I am now testifying in rebuttal of some of the things he said,—he said something to the effect that the Constitution was changed in 1949, and as a consequence of that all these activities prior to 1949 were not illegal.

I submit for the record Circular Letter No. 474, dated February 6, 1947, title, Declaration of Policy regarding membership in or support of totalitarian organizations. Without reading it all, I will quote you this from the second and third last paragraphs:

"That any individual who advocates or encourages Communism, Fascism, Naziism, or any other totalitarian philosophy, or who by other actions gives support to these philosophies, or isms, is not eligible to membership in the I. A. of M.

"That any member of the International Association of Machinists who advocates or encourages Communism, Fascism, Naziism, or any other totalitarian philosophy, or who, by other actions, gives support to these philosophies or isms is subject to the charge of improper conduct and trial under Article K Code and if guilty shall be expelled."

Mr. Friedman: I want to point out, that says there,—what is the date, March 1, 1947—all of the stuff pre-
177 dates that, too. However, I was pointing out the charge; it says: "Specifically I charge this Brother with advocating, encouraging and supporting Communism, and also with being a member of the Communist Party." That is now, this minute. And since 1948 I have been signing Non-Communist Affidavits, which are official government documents.

Mr. Weber: Before I get on from this, I want to point out that this circular letter, when you read it, is a repeat of a declaration of our Executive Council in 1924, and throughout that period that is the same rule which has held. You can read the letter when you get to it, and, if you don't mind, I will go on.

Friedman about signing Non-Communist Affidavits: I don't think it is a secret that we never until this year filed any papers for our local lodges. On the advice of our International Union during the period immediately following the passage ot the Taft-Hartley Law, we took the position that our local lodges were not compelled to file because all of their business was handled through the District, but to safeguard ourselves we had the local lodges to fill out compliance papers, and we held them here in the District. Now, I think that was common knowledge of everyone who attended the District meetings; and it wasn't

until this year, as the result of a case which we had pending at the Larkin Packing Company, we filed the compliance papers for the local lodges; all papers which have been made up, excepting for the year 1952, are
178 over at the office. The National Labor Relations Board has taken the position that it is not their duty to question these Non-Communist Affidavits as to whether or not they are false. We have several services to report to us decisions and so forth, who report to us the decisions of the NLRB, and I don't know of one case where the NLRB has gone after anybody for signing a Non-Communist Affidavit up to the present time or recent times. They have taken the position it is the business of the Justice Department, and the Justice Department says it is not their business to run down all of these, and there they sit without having filed Non-Communist affidavits, and they haven't been tried as yet for not filing a Non-Communist Affidavit.

I testified about Friedman telling me he was a member of the Abraham Lincoln Brigade. He told me. What he told you about the International Group, or whatever it was they called it, tonight was the first time I heard of that. My testimony was based strictly on what he told me.

With respect to Shrenk and his expulsion, as I put it: The Grand Lodge failed to follow the procedure of trying Shrenk in his local lodge; they first tried him before a Committee of the Grand Lodge, and the Court has stopped them three times on technical grounds.

With respect to the incident at the Western Cartridge Company, and Friedman tries to paint a picture that we were wobbling up there. I told Friedman: "We
179 don't need that help. We will beat their ass off in an election.", and that I didn't care to have it.

With respect to Davis' testimony: As I recall, Davis testified that he said, "Do you know Friedman is a member of the Communist Party?" And he testified that Korhammer's answer was: "Yes, and so am I and Kutier."

Now, a few days after that Friedman took occasion to come to me and complain about Davis' remark, and he reported the conversation substantially as Davis testified. And he said Korhammer was only kidding him. Now, the fact that this may get around being of sufficient importance to Friedman to come in and tell me Korhammer wasn't serious, is an indication that he was.

Friedman said something here that I had a woman testify that she heard him make a speech in New York. I don't know if I have ever had anyone testify anywhere with respect to Friedman's activities; I don't know of it.

That is so much in rebuttal.

Now, I would like to sum up. Since he wants a chance to follow, it is perfectly okay.

Specifically I charge this Brother with advocating, encouraging and supporting Communism, and also with being a member of the Communist Party.

The testimony here by Younglove, of Davis' recount of Korhammer's statement, and of Speckman, indicates that Friedman induced Kutier and Korhammer to become members of the Communist Party, which meets all three tests: advocating, encouraging and supporting Communism. Speckmann's direct testimony that Friedman attempted to induce him to join the Communist Party meets all three charges of advocating, encouraging and supporting Communism. And his direct testimony to your Committee that he fought in the Abraham Lincoln Brigade is what he told me. And that is supporting Communism regardless of when it occurred.

Did he sign that petition? It is in the book.

That he is a member of the Communist Party is supported by Korhammer in his recount of the incident with Davis, by Speckmann on the stand, and by Younglove on the stand. Now, that is from all these different directions.

That he resigned as President of Lodge 688 rather than sign the Non-Communist Affidavit is admitted by him. There is no question about that. That was his reason for not signing it; he resigned; he wouldn't do it.

With respect to the meetings: I would like to point out that Younglove didn't put him in a hundred meetings a year. He said specifically six meetings on Gravois, and about twelve meetings up at 1041 North Grand, and some other meetings which they held around the town.

And with respect to the using of the phone: He said for certain things. That is in the testimony.

Now, in my discussions with Friedman, I have had no doubt since I first became acquainted with him, or
181 shortly thereafter, that he was and still is a member of the Communist Party. He told me he was. There are two documents there which I acquired four years apart from different sources, which certainly indicate that he has a record of attending these meetings.

In direct testimony Speckmann recounted that Haveland Perkins, Clara Perkins and Marcel Smith met in this group of selected individuals and plugged the Party line, and were recognized as Communist organizers.

In answer to direct questions Younglove, who had access to the names of these people, when asked is—I will go down the line for you: "Is Sentner a Communist?" He said "Yes". "Is Haveland Perkins?" He said, "Yes." "Is Clara Perkins?" He said "Yes". "Is Marcel Smith?" He said "Yes." When I asked him about the people who were meeting frequently with Friedman, had he ever seen their names on the Communist rolls, he said "Yes." I said, "Was Charles Korhammer's name on there?" He said "Yes." "Was his wife's name on there?" He said there was a Mrs. Korhammer. "Was Ray Kutier on that list?" He said "Yes." "Was Marie Kutier on that list?" He said "Yes." "Was Clyde Ray's name on that list?" He said "Yes." "Was Joe Fite's name on that list?" He said "Yes."

Now, Speckmann testifies in meetings, these particular persons were present at those meetings.

Now, here you have got a picture of direct testimony from different individuals that these people are Communists,

meeting together under the auspices of Friedman
182 and his active group.

I have records here four years apart which recite almost the same things in regard to his activities.

Mr. Friedman: How come the language is the same if they are four years apart?

Mr. Weber: What is it?

Mr. Friedman: How come the language is the same if they are four years apart?

Mr. Weber: They may have come from the same source, from an investigator.

Mr. Friedman: All right.

Mr. Weber: But I got them four years apart from different sources.

Now, I say there is testimony that indicates without question, and from more than one source, that these active members who were attending these meetings where the Communist representatives were present were Friedman and the other members of the Machinists Union who have been named as Communists. And I submitted their names to a detective in the St. Louis Police Department to see if he would give the same report I have. And I have been diligent, and I waited a long time to do this because I didn't want to hurt anybody unnecessarily. But when Younglove stands up in the District Lodge and says this is the fact, an accredited witness, a man whom the Government had coached for some ten years, nine or ten years, and

who they thought enough of to bring him here to tes-
183 tify to the activities of the Communists in St. Louis,

and indict the top eleven Communists in the United States, and his testimony which helped to convict these men, his knowledge to testify was gained at the same time that he gained the knowledge to testify here; he was an accredited and accepted witness in New York, in a case that was a damn sight more important than our case here.

I submit you have the testimony and evidence from various sources, weaving around Friedman a web that he just

cannot shed, and this testimony supports what I specifically charge him with. That is all.

The Chairman: Anything else?

Mr. Friedman: I would like to finish this. I want to emphasize again that there are unexplained conflicts in the testimony.

I want to point out, when Speckmann testified I talked to him about the Communist Party on the phone, certainly if there was any prohibition about talking in Communist circles on the phone, it must have been about the Communist Party; it could not have been about other things.

I want to point out that Youngiove said we were disciplined as Communists, and that he was the Chairman, that he saw me in meetings, and we would do these things, implying a relationship to you people that he knew me.

I want to point out that this so-called direct testi-
184 mony is a strawman which has been built and nurtured. I can't believe that two documents, four years apart, have any greater importance because they were duplicated four years apart; as you will notice, the language is identical.

It is hard to disprove a lot of these things. It is also hard to prove them. And just saying it, doesn't make it so. In other words, the burden of proof,—again I want to repeat, the burden of proof lies on Lloyd, who can just sit there and say it is so and so; and Speckmann says it is so and so; and Korhammer says it is so and so. Let us have the evidence, let us have some corroboration and see what has been actively engaged in. Many members are members of the union, and yet they are not charged with doing anything against the best interests of the I. A. of M., these individuals named.

So far as the Non-Communist Affidavits are concerned: I had no knowledge in 1948 when I signed the Non-Communist Affidavit that they were not going to be presented to the Board. In fact, if there had been any question in Lloyd's mind that they would not be presented because of

the Justice Department not taking action, I didn't know that. He gets that from the Business News he gets I guess. I didn't get that information from the things I read. When I signed the notarized statement as being a Non-Communist, I was laying myself right open to ten years in the penitentiary. I am not dumb, and I wouldn't take ten years in the penitentiary on the basis of such a thing.

185 He keeps talking about direct testimony. Younglove may have testified in the trial of the eleven and have done a good job, I don't know, in New York. He got a lot of publicity for it. He used to be a gasworker; he is a concrete contractor now, with no visible means of making contacts with his customers. He is testifying now about reactions of records of the year's schooling, and he still nevertheless talks about meetings, which he has admitted he never attended, at my house, in which these names were mentioned: Perkins and Smith. As I say, I don't know Smith; I never saw him. "Perk" at one time was at our house, and yet he testifies very glibly of all these things happening. He wasn't there. Union members were there, ten or fifteen at a time, in a select group, officers all of them. They didn't testify to any of these Communist activities, so he picks out a school group. Why didn't he bring this selected group to testify. It says here, names, bunch of names have all been members of the Communist Party; present activity not yet identified. But the detective is reported to have told Lloyd they are all Comunists.

I am laying in your hands, Brothers. I don't think he has submitted anything except a bunch of statements, which it is almost impossible, based on the nature of the charges as I have received it, based on the amount of time I have had, to disprove it. If given sufficient time I might pick out some of the dates and disprove them, saying I was not at the place where he says I was. If I could do that as to one or two, I might do it as to others, too. No one

186 can say where they were in November, 1945. You just can't do it.

The Grand Lodge Executive Council orders need constitutional documents. I don't mean they are unconstitutional. I mean when this thing came up several years ago and I investigated it legally, we talked about it, and sometime in the past month *I talked again to my two attorneys.* They suggested that any point not based on the evidence, that had been loosely bandied about the District in the last three or four years, that all of these things which clearly were not truthful, being for a certain purpose, prepared by a certain individual,—I don't know, this record looks like his handiwork, I don't know,—however, based on that kind of attack, a legal answer—and they think it is legal—is that you can't try a man upon evidence of crimes committed before the act became crimes. Now, I have told the attorneys that that would be a poor thing to use, because that would be a tacit admission I was once a member of the Communist party. They said, "no, you are not suppressing the evidence; you want the evidence to come before a Committee." I said I did; that we are going to show that, as far as logical evidence will show you, but that we will point out that a man can become a member of the Machinists Union in 1943—which I did—and have no knowledge of the Executive order which was issued in 1924; that if I was made a member of the Machinists Union in '43, I couldn't be held for anything
I didn't know about; that my obligation which I ac-
187 cepted, the Constitution which I was handed, the By-laws which I was handed, those were our governing factors. Executive orders which thereafter came before the order, okay if you have prior knowledge of it. Prior stuff is ex post facto in their opinion. I am talking about legal stuff now.

I don't accept Younglove as anything but an ambitious man, schooled in demagogy with which he was affiliated here. It doesn't hang together, not with me. I was interested to see his detailed analysis of my work in the service organization, because it is so simple. Never having been a service man, what could I offer to the Vets in 1945 or 1946. Never having been a service man, what information could I

give the Vets? Did I give them a rubber duck? Could I stand on the steps at Jefferson City and tell them anything? What did I know about it.

Mr. Luechtenfeld: Al, I want to ask you a question. Were you engaged in Red activities in the Longshoremen's Union?

A. No, I was an organizer, and a good one.

Q. Was anything said about Red activity in connection with the Longshoremen's Union?

A. I say there was a lot of activities through the Reds and still is, when Harry Bridges is acknowledged with being a Red. Harry Bridges is an Australian, and came here to take charge of the dockworkers in 1944; and since then there have been several charges, and the Supreme Court cleared him on the one, and now he is up on one that they charge he lied in an affidavit. I don't know what the
188 result will be. I was working in that union first in Philadelphia, and Chicago, and I did a good job at that time working in that union. There was a lot of heat on Harry Bridges, the shipowners in California and on the West Coast. We poopooed the question of Harry being a Red. I wasn't paying any attention to it. I didn't worry about it. I was making good money. I never worried about it. And he never bothered me. For instance, where I had trouble with the Council over supporting Britain during that period; they never said anything to me, and I advocated supporting Britain too. Sentner, who I am supposed to be so close to, gave me a hard road to travel in the CIO Council in 1940; it was a rough road, every step, too, based on because he was opposed to aid to Britain at that time. It was funny, because the Communists were attacking him at that time. I can only say that Red activities are so poor as to be almost meaningless. By Red activities, as popularly meant, is evidence there is espionage and dangerous sabotage and so on going on. Certainly as to that I have never heard of such things going on. The Red activities Lloyd is speaking of, are activities we carry on right in

open lodge before all our union members and not a thing to hide. Every union officer was invited to their meetings, and there were some who couldn't come at times, but since 1948 or '49 all officers had knowledge of the meetings. There were variations about who would come and who couldn't come. There is no question about the char-
189 acter of those meetings; no question in the world about it. Those meetings are the simplest thing in the world to check up on. Any further questions?

Mr. Hedrick: I have not heard any mention of it. It was testified—It may not be legal; if not, the Chairman may so instruct you not to answer. Speckmann testified you asked him for a donation of twenty-five dollars towards the defense of the Eleven Communists in New York.

A. Yes, I pointed it out. You may have missed it; you may have been outside at the time. Here is the way it went. Steckmann testified I asked him for twenty-five dollars to settle the costs of the eleven Communists who were tried in New York. The trial occurred in 1949. Younglove testified early in 1949. That is a clipping I got from the Post-Dispatch (indicating papers)—in 1949. We moved here in 1948. Steckmann testified I asked him for money to defend these people at the St. Louis House before they were ever on trial. I am trying to point out there is an inconsistency there. In the first place, I never heard of the trial until 1948 when they were putting them on trial for early in '49; then there was a squabble about jury selection and all of that. Younglove didn't testify until 1949, but Steckmann testified I asked him for money at the St. Louis house for the Communists. That could be at any time; that could be 1945, '46 or '47; but it doesn't hang together it could have been for the defense of the Communists who were on trial because we had moved here in 1948. I am trying to
190 point out the inconsistency there.

The Chairman: Have you anything else, Lloyd?

Mr. Weber: No, that is all.

Mr. Friedman: Does the Grand Lodge representative want to ask me anything?

Mr. Bjurman: I am not supposed to inject myself into the thing. I am merely sitting here as an observer.

Mr. Friedman: Then may I ask one last thing. I question the destination of the report. It will be at the Lodge?

The Chairman: There will be no report made, will there?

Mr. Friedman: It says in there reports shall be made.

The Chairman: It says it in there, but there is nothing in the Constitution that says that. We make a report to the Local.

I, W. P. Kimberlin, do hereby certify that I am a General Shorthand Reporter; that I reported the above proceedings in shorthand, and the above and foregoing is a correct transcript of the proceedings had upon said trial.

/s/ W. P. KIMBERLIN
General Shorthand Reporter.

191

EXHIBIT B-3

THOMAS A. YOUNGLOVE
CONTRACTOR OF CONCRETE AND CEMENT WORK
ST. LOUIS 9, MO.

FLanders 2682 — 5217 McCausland Ave.

January 22, 1952

International Association of Machinists
District 9
St. Louis, Missouri
Atten: Mr. Lloyd Weber

Dear Sir:

This will confirm my statement to you the other night by phone.

I know Al Friedman to be a member of the Communist Party. I have attended party meetings where he was present and took an active part. These meetings were held at 1041a North Grand Avenue, St. Louis, Missouri, behind

doors that were closed and locked. Also I issued Al Friedman a party card #94673 while I was Financial Secretary of the South Side Section of the Communist Party. At our city committee meetings it was reported by the State Secretary that Al Friedman was doing a grand job in organizing the Machinist Groupe. It was also stated that meetings were being held at his home also schools were held there. The party card I mentioned was given to the Financial Secretary of the Machinist Groupe of the Communist Party, Marie Kuiter. 1949 cards were not issued. I knew Al Friedman to be active in the St. Louis Veterans Committee. *A front.* I knew Al Friedman to be chairman of the Machinist Groupe. I knew Al Friedman to attend the Roosevelt Club meetings from which operated all the trade union groupes of the Communist Party.

Mr. Weber please accept my very sincere thanks to you and the district for asking me to help in this matter knowing and understanding the Communists as I do. If I did not offer my full support I would dishonor our dead and disrespect our wounded. This man Al Friedman owes his allegiances to the Soviet Union of Russia. Again let me say I am pleased at your request. Count on me to help in anyway I can at any time.

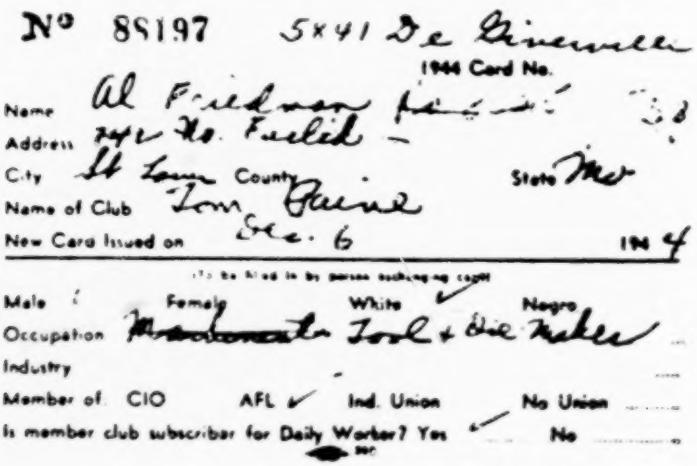
My best,

/s/ Thomas A. Younglove
Thomas A. Younglove

TAY/la

192 EXHIBIT B-4

Friedman's Membership Card in Tom Paine Club



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193 C. Documents Relating to Appeal of Lloyd Weber to President of International Association of Machinist from Decision of Local Lodge on Charges Against Al Friedman.

1. Exhibit C-1 Appeal of Lloyd Weber, dated April 10, 1952, to President of the Association from decision of the local lodge.

2. Exhibit C-2 Request of President of the Association to local lodge to transmit record of trial of Al Friedman, dated April 17, 1952.

3. Exhibit C-3 Letter of April 21, 1952, from secretary of local lodge to President of the Association transmitting record on appeal.

4. Exhibit C-4 Letter of April 28, 1952, from Al Friedman to President of Association objecting to appeal.

5. Exhibit C-5 Decision of President of Association, dated May 5, 1952, expelling Al Friedman from membership in the Association.

6. Exhibit C-6 Official Circular No. 183, dated August 15, 1925. Ruling of Executive Council that member of Machinists Association cannot belong to Communist Party.

7. Exhibit C-7 Official Circular No. 474, dated February 6, 1947. Order of Executive Council reaffirming order of August 15, 1925, and stating that any member of the Association who advocates or encourages Communism or gives it support shall be expelled.

194

EXHIBIT C-1

DISTRICT NO. 9

INTERNATIONAL ASSOCIATION OF MACHINIST
3547 OLIVE STREET
ST. LOUIS, MISSOURI

PHONES: LUCAS 6092-3-4

APRIL 10, 1952

Mr. A. J. Hayes, President
International Assn. of Machinists
Machinists' Building
Washington 1, D. C.

Dear Sir and Brother:

In accordance with Section 9 of Article K of the Constitution of the I.A.OfM, I am herewith filing an appeal to the International President against the decision of Tool and Die Makers Lodge 688 in finding Bro. A. Friedman, card No. H-93065, not guilty of the charges (copy en-

closed) which I filed against him in Lodge 688 on March 14, 1952. This appeal is based on the fact that *the Trial Committee and the Lodge utterly ignored all the testimony and evidence which was presented against Bro. Friedman.* Specifically, I charged Bro. Friedman with advocating, encouraging and supporting Communism and also with being a member of the Communist Party.

With respect to Friedman's membership in the Communist Party, the transcript discloses that Mr. Thomas Younglove, who as an undercover agent for the F.B.I. held office in various Communistic groups in St. Louis, Missouri, positively identified Friedman as being an active member of the Communist Party, that he had been in meetings with him, that he had heard him talk, that he had reports of Friedman's activities in these Communist meetings. This is also supported by the testimony of Bro. Davis when he recited a conversation he had with Charles Korhammer, a member of Lodge 688 and a Communist as named by Younglove, dealing with Friedman's membership in the Communist Party. The testimony of Fred Speckmann also supports this charge. In addition to that, Friedman has on more than one occasion admitted to me that he had been a Communist.

The first time Friedman ever denied being in Spain with the Abraham Lincoln Brigade was during his trial although on many previous occasions he had admitted being in Spain. He admits that he was on the same side as the Abraham Lincoln Brigade.

The records of Friedman's attendance at Communist meetings, which were submitted as exhibits to the Trial Committee, also show a steady and active participation in Communist Party meetings. The testimony of Fred Speckmann dealing with the various meetings which he had attended in the homes of members of the Union, who were identified as Communists by Mr. Younglove, under the sponsorship of Friedman, where known Communists were

introduced to our members and taught the Party line also show this. The Communists named by Speckmann are corroborated by Mr. Younglove, who, as the Secretary in the South Side Group of the Communist Party, had full knowledge of the Communists membership and activities.

The charge against Friedman advocating and encouraging and supporting Communism is supported on the record by his attempt in induce Bro. Fred Speckmann to join the Communist Party,

The admittance of Bro. Charles Korhammer, as related by Davis, that he had recruited both Bros. Korhammer and Ray Kutier into the Communist Party.

That as the acknowledged leader of the Machinists Group in the Communist Party, he had recruited other members for the Party,

That he conducted meetings where known Communists advocated, encouraged Communists' doctrine,

That he subjected members of the Machinists' Union to Communist propaganda,

That at one of these meetings, one of our members, Clyde Ray, also identified as a member of the Communist Party, peddled copies of the Constitution of the Union of Socialist Soviet Republics,

That he admits that he refused to sign a Non-Communist Affidavit when the Taft-Hartley Law first went into effect and that when he did sign it, he was positively in a position to know these papers were not being filed with the N.L.R.B.

196 That although he denies being a subscriber to the "Daily Worker" he admits that he receives the "Sunday Worker" which he also admits is the same thing.

That he admits that he called "Shaw" with respect to having the U.E. withdraw from an N.L.R.B. election at the Western Cartridge Co.—"Shaw" is the name of a

former Secretary of the Communist Party of Missouri, which is public knowledge,

That he practically admits that he signed a petition to free Earl Browder as a member of the Citizens' Committee to Free Earl Browder—this organization has been branded subversive by the Attorney General of the United States,

That Friedman failed to deny that the membership card in the Tom Paine Club was his card and that this card also revealed this Club as a subscriber to the "Daily Worker" and was named as a front organization by Thomas Younglove,

That his own testimony with respect to his employment by Harry Bridges Longshoremen's Union indicated a participation in Communistic activities,

That he practically admits that he had never denied he was a Communist after having admitted that he was one.

The record is replete with testimony and at least partial admittances by Friedman to his being a member of the Communist Party. There is nothing in the record or in his activities in the Union throughout this period of time that he had ever denied being a Communist or that he had ever renounced Communism. This he also admits.

I do not think it is necessary to point up any more of the evidence, but the record certainly supports all of the charges that I have filed against Friedman beyond a reasonable doubt.

I might say in conclusion that the Trial Committee failed to call any of this evidence and testimony to the attention of the Local Lodge.

197 I do not have a copy of the Trial Committee report, but this and the exhibits which had been submitted during the trial and the transcript of the testimony is in

possession of Bro. John Graf, Secretary of Lodge 688, and should be made available to you in considering this appeal.

Fraternally yours,

/s/ LLOYD WEBER
Lloyd Weber
Bus. Representative
District No. 9

LW:vs

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198 EXHIBIT C-2

April 17, 1952
Subject: Weber vs. Friedman
Lodge No. 688

Mr. Henry Eves
President, Lodge No. 688
2824 Brentwood Blvd.
St. Louis 17, Missouri

Mr. John F. Graf
R. S., Lodge No. 688
5648 Oleatha Avenue
St. Louis 9, Missouri

Dear Sirs and Brothers:

Under date of April 10, 1952, Brother Lloyd Weber, Plaintiff in the subject case, appealed the decision of Lodge No. 688 to the International President in accordance with Article K, Section 9, of the Grand Lodge Constitution. Pursuant to our policy in appeal cases, you are directed to furnish this office with the following information and documents relating to the case:

1. Copy of the charges filed.
2. Transcript or minutes of the trial.
3. Report and recommendation of the Trial Committee.

4. Excerpts from the minutes of the meeting of Lodge No. 688 dealing with the action of the Lodge with respect to the report and recommendation of the Trial Committee. These minute excerpts must show each motion dealing with the Trial Committee's report and recommendation and the exact number of votes for and against each motion.

We refer you to Article K, Section 10, of the Grand Lodge Constitution, which sets forth the rights of members during appeal.

You are advised that a copy of the transcript of the hearing before the Trial Committee, held March 24, 1952, composed of ninety-eight pages and signed by W. P. Kimberlin, shorthand reporter, was furnished this office by the appellant.

With best wishes, I remain

Fraternally yours,

A. J. Hayes
International President

H/mk
cc: Weber

199

EXHIBIT C-3

INTERNATIONAL ASSOCIATION OF MACHINISTS
TOOL AND DIE LODGE 688

Machinists Building
3547 Olive Street,
St. Louis 3, Mo.

Office of
Recording Secretary
5648 Oleatha Ave.
St. Louis 9, Mo.

April 21, 1952

Subject: Weber vs. Friedman
Lodge No. 688

Mr. A. J. Hayes
International President IAM.
Machinists Building
Washington 1, D. C.

Dear Sir and Brother:

In answer to your letter of April 17, 1952, requesting information and documents relating to the trial of Brother Al Friedman, I as Recording secretary of Lodge 688 furnish you with the enclosed requested information.

Your letter will be read at the next meeting of the Lodge so that the membership present will know that an appeal has been made to the International President, in regard to the decision of Lodge No. 688, in the subject case of Weber vs. Friedman.

As a copy of the transcript has been furnished you by the appellant, the lodge's copy will remain in my possession.

With best wishes, I remain

Fraternally yours,

/s/ JOHN F. GRAF
John F. Graf,
Recording secretary,
T & D Lodge No. 688
I.A. of M.

200 EXHIBIT C-4

5841 DeGiverville
St. Louis 12, Missouri
April 28, 1952

Mr. A. J. Hayes International President
Grand Lodge Office
Machinist Building
Washington 1, D. C.

Dear Sir and Brother:

I am writing concerning the appeal by plaintiff Lloyd Weber, in the case of Weber vs. Al Friedman (H93065) which was voted on by Lodge 688, District No. 9, at its regular meeting of March 28, 1952.

Your communication announcing the appeal and requesting the official results was read to Lodge 688 on April 25 at its regular meeting.

Nowhere does our Constitution give the right of appeal to a plaintiff in a trial. Certainly Article K, Section 9, under which Weber seeks to appeal is clearly and unequivocally reserved to a defendant who may have been found guilty by his Local Lodge.

I do not believe it necessary to detail the lack of merit in the original charges and to cite the abundant supporting evidence in our Constitution which clearly reserves the right of appeal to the defendant in a trial case. I request that you deny the plaintiff Weber's appeal forthwith, on the basis that it clearly violates the acquitted defendant's Constitutional rights.

Fraternally,

/s/ Al Friedman
Al Friedman
Card No. H93065

201 EXHIBIT C-5

INTERNATIONAL ASSOCIATION OF MACHINISTS

Machinists Building
Washington 1, D. C.

May 5, 1952
Subject: Case of Weber vs. Friedman, Lodge No. 688, St. Louis, Missouri

Mr. Henry Eves
President, Lodge No. 688
2824 Brentwood Blvd.
St. Louis 17, Missouri

Mr. John F. Graf
R. S., Lodge No. 688
5648 Oleatha Avenue
St. Louis 9, Missouri

Dear Officers:

In accordance with Article K, Section 9, of the Grand Lodge Constitution, under date of April 10, 1952, Brother Lloyd Weber, a member of Lodge No. 787, Plaintiff in the subject case, filed an appeal with the International President against the decision of Lodge No. 688. A copy of the charges filed by Brother Weber, together with a copy of the transcript of the hearing before the Trial Committee and other information dealing with the case was received at this office from the Plaintiff, together with his appeal on April 14.

Pursuant to the policy of this office in appeal cases, a letter was directed to the President and Recording Secretary of Lodge No. 688 on April 17 requesting information from the Lodge regarding certain important details of the case and apprising them of the fact that the Plain-

tiff had furnished this office with a copy of the ninety-eight page transcript of the hearing. Under date of April 24, the Recording Secretary of the Lodge, Brother John F. Graf, furnished this office with the requested information.

Findings based upon the record in this case:

1. Charges were filed by Brother Lloyd Weber, a member of Lodge No. 787, against Brother Al Friedman, a member of Lodge No. 688, on March 14, 1952. Specifically, the Defendant was charged with advocating, encouraging and supporting Communism and being a member of the Communist Party, all in violation of the laws of our Association as found in the Grand Lodge Constitution, particularly Article XXV, Section 2, which reads as follows:

> "Any member or members of any local lodge who attempt to inaugurate or encourage secession from the Grand Lodge or any local lodge, or who advocate, encourage, or attempt to inaugurate any dual labor movement, or who violate the provisions of the Constitution of the Grand Lodge, or the Constitution for Local Lodges, or any member who advocates or encourages Communism, Fascims, Nazism, or any other totalitarian philosophy, or who, by other actions gives support to these 'philosophies' or 'isms', shall, upon conviction thereof, be deemed guilty of conduct unbecoming a member and subject to fine or expulsion, or both."

202 2. A Trial Committee was appointed by the President of Lodge No. 688, as provided in Article K of the Grand Lodge Constitution, and subsequently a trial was conducted by the committee composed of Brothers Harbart, Luechtenfeld, Hedrick and Eves.

3. The Trial Committee submitted its report and recommendation at the regular meeting of Lodge No. 688 on March 28, 1952. The Trial Committee found the Defendant not guilty "due to lack of sufficient and positive evidence."

4. The minutes of the regular meeting of Lodge No. 688, held on March 28, 1952, indicate that the report of the Trial Committee was read and the members present voted by secret ballot as follows: Guilty 26. Not Guilty 95.

5. This case is properly before the International President on appeal.

6. In reviewing all the testimony and other evidence submitted in the record in this case, I find the following incidents particularly pertinent and significant with respect to the charges filed:

a. The testimony of *Witness Thomas A. Younglove*, quoted below, identifies the Defendant as being a member of the Communist Party and of being an active worker over a long period in Communist schools and organizational work. Witness Younglove further testified that the Defendant was a recognized leader of the "machinists' Group" in the Communist Party. (Tr. 11-14)

"Q. Do you know Al Friedman?

A. I do.

Q. Can you identify him?

A. I can.

Q. Is he here?

A. He is in this room. This is Al Friedman here (indicating).

Q. Do you know him as a member of the Communist Party?

A. I do know him to be a member of the Communist Party.

Q. How do you know this?

A. From being with him in closed meetings, where the doors were locked, and closed and guarded; and by issuing him a membership card while I was a member of the Communist Party, and also the Financial Secretary of the South Side Section.

Q. Did you ever know of his withdrawing from the Communist Party?

A. Not to my knowledge.

Q. What was the last card issued to him in your memory?

A. May I look at these notes for a minute? (Examines paper.) The last card issued to him to the best of my recollection was in 1946, and the number was 94663.

Q. You say that was in 1946?

A. To the best of my recollection that was 1946. It could have been 1945; I am not sure.

203 Q. If he had withdrawn from the Communist Party would you have known it in your position?

A. In my position I would have known it up until 1949, the first part of May.

Q. Does the Communist Party cooperate with those who quit the party?

A. No.

Q. Will you tell in your own words the activities of the defendant, Al Friedman, as a member of the Communist Party?

A. Yes. Al Friedman has taken an active part in the Communist Party, in their schools, and in their organizational work. He has held—and the reports came to me, when I was a Chairman of the Roosevelt Club the reports came in as to the activities of the party members, how well they have been able to entrench themselves in the various organizations, how much good they have done for the party, how often they hold their schools, where the schools are held, and who were the leaders of these schools. Al Friedman was regarded by the city committee members of the Communist Party as being the most active, and he was set up in the eyes of those as being the leader others should follow and do the work that he is doing.

Q. During what period?

A. Al Friedman was known for his work in the Machinists group, and also in the St. Louis Veterans Committee.

Q. Did you ever hear a report that schools, Communist schools, were being conducted at Friedman's home?

A. Yes.

Q. Through whom did you issue Friedman's membership card?

A. That card was given to the Financial Secretary of the Machinists Groups, known to me as Marie Kutier.

Q. Was Friedman recognized as Chairman of the Machinists Group in the Communist Party?

A. The term "Chairman" doesn't register with me, Mr. Weber, but the word was used as the Leader of the groups.

Q. You say you have been in meetings with him; where were these meetings held?

A. They were held in many places, namely 1041A North Grand, City Headquarters of the Communist Party; the Keil Auditorium; and if my memory serves me right at the Roosevelt Club on Gravois Avenue; and at one time he was a member of the Tom Paine Club.

Q. Is the Tom Paine Club a front organization?

A. The Tom Paine Club is one of the many front organizations which they have in the city.

Q. And do you know who brought people in the Communist Party from the Machinists' Union.

204 A. The card was given to this man, Al Friedman."

Witness Younglove testified that he is the same Thomas Younglove who testified in the New York trial of eleven top Communists as a witness for the United States Government. He testified further that he was an undercover man for the Federal Bureau of Investigation dealing with subversive activities from early 1940 until the summer of 1949. He stated that during this period he had held membership and many offices in the Communist Party and its front organizations. Among the offices he held were those of Recording Secretary of the Trade Union Group of the Communist Party and Financial Secretary of the South Side Section. Younglove's testimony was forthright and given in a manner which clearly indicated his expert knowledge of the Communist Party and their purposes and methods of operation, particularly among trade union groups.

Defendant Friedman did not present any witnesses in his defense of the statements made by Witness Younglove. He did, however, cross-examine this witness at considerable length. During the cross-examination the Defendant was unable to weaken the testimony made by Younglove; in fact, certain points in support of the charges were more firmly established. For example, Witness Younglove reiterated his statements made under direct examination regarding the Defendant's presence and activities at various meetings of the Communist Party and its front organizations. Particular reference was made to meetings behind locked and guarded doors at 1041A North Grand, city headquarters of the Communist Party. In response to questions from the Defendant, the Witness made the following identification, which was not refuted or denied.

Q. Mr. Younglove, were you the chairman of the meeting I was supposed to have attended?

A. I don't recall if I was the chairman of the meeting you attended. I do recall one meeting, and I can recall it very clearly, and I can quote you.

Q. I would like to hear it.

A. That was at 1041A North Grand, and you were criticised for not doing enough in the Machinist group; and you had a wonderful group; you were not turning in the shop stewards' names; that was your orders and my orders, too. And you said, 'Listen! There's no use to bump your head up against a stone wall with a bunch of Catholics and reactionaries.' You sure did.

Q. Are you quoting me now?

A. I am quoting you now.

Q. Finish the quotation and I will ask you further questions.

A. You said a great many things. I don't recall all you said.

Q. You said I was criticised?

A. Yes, by Helen Munsel.

Q. By Helen Munsel?

A. Yes.

Q. I take it she is a leader with the Communist Party?

A. She was the State Secretary; while Ralph Shaw was in the room.

205 Q. You said I was criticised a minute ago, and yet in your earlier testimony you stated I was praised rather extensively for the work I had done in the Machinists Union. Now, which is it?

A. You were criticised, and you were praised.

Q. Oh. You mentioned discipline the group had when you were Chairman of the Roosevelt Club, and how you didn't question orders, and so forth. How did it come about that I did question orders?

A. I don't recall that you ever questioned any orders.

Q. Giving you the benefit of the doubt, I may have misunderstood you, but didn't you say I questioned the necessity of furnishing shop stewards' names?

A. You were criticised for not turning in enough of them. You were also praised for doing a very active part in organizing.

Q. You would say I attended about six meetings at this Gravois Address, and you say I attended how many meetings—would you say that you were personally aware of me attending at 1041?

A. I don't recall offhand now; but I know I am safe in saying,—I can say this religiously and truthfully, too,—that I have seen you many times. You have seen me many times; you know that; we have been at these meetings together.

Q. Will you answer my question?

A. I will say at least ten or twelve times at 1041A North Grand. (Tr. 72-74)

Reference was also made to meetings at other locations among which was the Roosevelt Club on Gravois Avenue. This club was identified as headquarters for the trade union operations in the Communist organization.

Q. What about this place on Gravois, what kind of place was that?

A. That was the Roosevelt Club, a trade organization, from which the trade union operated of the Communist organization, including the Shoeworkers' group, the Railroad group, the Packing House Workers group, all the Communist groups.

Q. You saw me there?

A. Yes, I am pretty sure. I am very sure I have seen you at that meeting.

Q. Did I take a part in that meeting? Was there one meeting or many meetings of this Roosevelt group?

A. There were many meetings there.

Q. Was I at one meeting, or many meetings, or what?

A. I would say you were there at least six times.

Q. Six times? Were those meetings in the evening, afternoon, Sundays, Saturdays, or when?

206 A. Those meetings were in the daytime when we went there to receive our orders, for the leaflet to pass out, for our instructions, and our beginners' school, were held there, and our regular meetings most of the time was held in the evening." (Tr. 70-71)

b. Witness Fred Speckman testified that he had attended meetings in homes where Defendant Friedman was a discussion leader. These meetings were indicated to be educational sessions, but proved to be propaganda meetings for the Communist Party. He testified that he had attended such meetings in the Defendant's home and that the performers at such meetings were known as Communists. (Tr. 25) He further testified that he had attended a meeting at the home of I.A.M. member Fite, where propaganda records were played and the Communist constitution was introduced and offered for sale. (Tr. 27) Witness Speckman stated that he had been asked to join the Communist Party by the Defendant and had been offered the support of the Communist group in his efforts as a candidate for Organizer of District No. 9. Speckman did not join the

Communist Party and lost the election. After losing the election in District No. 9, and while attending a meeting at the home of the Defendant, Witness Speckman testified that he was approached by the Defendant who stated: "If you want to, I will fix it up with U. E. and I will get you a job as Organizer with U. E. (Tr. 29) Witness Speckman further testified that the Defendant went to Chicago and other cities to attend meetings of groups within the Machinists Union. After a Lodge meeting while at the St. Louis house, the witness stated that the Defendant had asked him to contribute $25 to defend the leaders of the Communist Party who were on trial. (Tr. 21-31)

The testimony submitted by Witness Speckman indicated his close contact with Defendant Friedman and a personal knowledge of the Defendant's activities and leadership in Communist groups.

Regarding the testimony of Witness Speckman, it is particularly significant that his employment with the Looseleaf Metals Company was obtained with the assistance of Defendant Friedman. In his testimony under redirect examination, Speckman testified as follows:

"Q. Freddie, when you were testifying here directly, you testified that Friedman told you that the Party had directed Korhammer to put you to work at the Loose Leaf?

A. That is right, he told me that on the phone.

Q. You are testifying to what Friedman told you; is that right?

A. That is right, he told me the Communist Party directed Korhammer to put me to work.

Mr. Weber: That is all.

The Chairman: Q. May I ask you if he definitely said the Communist Party?

A. He said 'The Party'. And by 'The Party', they don't always say the 'Communist Party' every time it is discussed.

Mr. Weber: Q. Of that you are sure, it was the Communist Party?

A. That is right.

The Chairman: Q. You were aware of that?

A. Yes.

Q. And of your own knowledge you knew that is what he was speaking of?

267 A. That is right, and telling me that the Communist Party was securing the job, it was to make me feel indebted to them.

Mr. Friedman: Was that on the telephone?

A. Yes; we had a lot of discussions on the telephone."

c. Witness Russell Davis testified that he had had a conversation with Brother Korhammer of Lodge No. 688, who told him that Friedman was a Communist. He further stated that he too (Korhammer) was a member of the Communist Party. The pertinent part of Brother Davis' testimony while being questioned by Plaintiff Weber is as follows: (Tr. 19)

"Q. Do you recall reporting to me of a conversation you had with a member of Lodge No. 688 with reference to Friedman as being a member of the Communist Party?

A. Yes. I remember a conversation I had with one of the members of Lodge No. 688, Charles Korhammer, at the St. Louis house.

* * * * *

Q. Will you tell the Committee what the gist of that conversation was?

A. I approached Brother Korhammer at the bar and we had some conversation, and during the course of the conversation I asked Korhammer if he was aware that Al Friedman was a member of the Communist Party, and Korhammer replied: 'Why yes, I know it,' He says 'In fact, I am a member also, and so it Ray Kutier.' I says, 'I think you are kidding me on that, Charlie,' and he said, 'No, I am not. In fact, Al Friedman is the one who asked us to come into the Party.'"

The Defendant did not cross-examine or produce witnesses to refute or question the testimony of Witness Davis.

Conclusions:

The record establishes clearly that Defendant Friedman has advocated and encouraged Communism and given support to the spread of the Communist philosophy in the U. S. A.

While it is true that the Defendant denied his guilt with regard to the charges against him, he failed to produce any witnesses to refute or challenge the statements of those who testified against him. Several pages of the transcript of the hearing are filled with statements by the Defendant; however, it is significant that he produced no substantial evidence of his innocence of the charge that he had advocated, supported and encouraged Communism or held membership in the Communist Party.

Witnesses Younglove and Speckman were cross-examined at considerable length by the Defendant; nevertheless, their testimony, portions of which are set forth above, was not weakened in any respect. The record is replete with convincing and unrefuted testimony showing that Defendant Friedman has consistently followed the Communist line and advocated and encouraged its support by others.

The official report of the Recording Secretary of Lodge No. 688 states the report of the Trial Committee as follows:

"We, the members of the Trial Committee of the case of Lloyd Weber versus Al Friedman have after long and serious deliberation and much discussion of the evidence presented find the defendant not guilty as charged due to lack of sufficient and positive evidence."

208 Under any system of law a Trial Committee or court does not have the option of ignoring evidence. I disagree with the report of the Trial Committee and find there is ample evidence in the record of a positive nature that the Defendant is guilty of the charges against him. In

this case the Trial Committee did not make a factual and adequate report to the Lodge as required by Article K, Section 6, of the Grand Lodge Constitution:

"The trial committee shall report at the next regular meeting of the local lodge. Such report shall be in two parts as follows:

"First: The report shall contain the findings and verdict of the trial committee together with a synopsis of the evidence and testimony presented by both sides.

"After the trial committee has made necessary explanation of its intent and meaning the trial committee's verdict with respect to guilt or innocence of the defendant, shall be submitted without debate to a vote by secret ballot of the members of the local lodge.

"Second: If the lodge concurs with a 'guilty' verdict of the trial committee, the recommendation of the committee as to the penalty to be imposed shall be submitted in a separate report to the lodge and voted on by secret ballot of the members then in attendance."

Their report was merely a conclusion and too vague and incomplete for the use of the Lodge in rendering a decision based upon the law of our Association. In fact, the report had the effect of minimizing the true facts revealed in the record and influencing the Lodge in a manner which would lead to the conclusion that no substantial evidence was submitted in support of the charges against the Defendant.

Since the evidence is a matter of record and the record is a verbatim transcript made by a qualified reporter, the failure of the Trial Committee fully to carry out their responsibility under the Grand Lodge Constitution is very significant in this case.

Under the circumstances this office must, pursuant to the requirements of our laws, make a decision based on the evidence found in the record.

Established Law and Policy of the I. A. M.

Because the totalitarian philosophies are a threat to free government, the members of the International Association of Machinists, who adopt the provisions and policies of our laws, have made expulsion from our organization mandatory when defendants are found guilty of violation of Article XXV, Section 2, of the Grand Lodge Constitution, quoted in No. 1 above. What effect could a lesser penalty have? Free from expulsion, a member found guilty of supporting a totalitarian philosophy could continue his destructiv work in our Association.

Article E, Section 1, of the Grand Lodge Constitution reads as follows:

"Any machinist, die sinker, die or tool maker, automobile or aircraft machinists or mechanic, welder, specialist, machinist's helper, production worker, helper apprentice, or apprentice working in the machine or metal industry may be admitted to membership in a local lodge of the International Association of Machinists upon paying the required fee and assuming the obligation of the Association, and provided further that said applicant does not advocate or encourage Communism, Fascism, Nazism, or any other totalitarian philosophy, or who, by other actions, gives support to these 'philosophies.'"

209 The policy of our Association regarding support of totalitarian organizations was firmly established in I. A. M. Official Circular 183 issued August 15, 1925. The policy declaration set forth at that time was pursuant to action taken by the I. A. M. Convention held in Detroit, Michigan, September, 1924.

The Communist Party was set forth in Official Circular 183 as an organization antagonistic in character and dual in nature to the International Association of Machinists. All Lodges and members of the I. A. M. were notified that on and after October 15, 1925, no member of the International Association of Machinists could hold membership or

affiliation with the Communist Party and continue his membership in our Association.

Under date of February 6, 1947, a declaration of policy regarding membership in or support of totalitarian organizations was issued to the officers and members of all Local Lodges of the I. A. M. This was designated Official Circular 474 and dealt with the dangers of Communism and other totalitarian philosophies, and set forth the following:

1. The policy of our Association relative to the ineligibility of those who advocate or encourage Communism, in so far as membership in our Association is concerned.

2. The policy of our Association relative to the expulsion from membership of any member found guilty of advocating or encouraging Communism. It was emphasized in Official Circular No. 474 that the following motions were unanimously adopted by the Executive Council August 15, 1925:

"That any individual who advocates or encourages Communism, Fascism, Nazism or any other totalitarian philosophy or who by other actions gives support to these philosophies or isms is not eligible for membership in the I. A. M.

"That any member of the International Association of Machinists who advocates or encourages Communism, Fascism, Nazism or any other totalitarian philosophy, or who by other actions gives support to these philosophies or isms, is subject to the charge of improper conduct and trial under 'Article K,—Code'—and if guilty shall be expelled."

Decision:

Careful examination of all the testimony presented at the trial reveals that certain activities of the Defendant have been directed toward the advancement of the Communist philosophy in the United States. In accordance with the duties and responsibilities of my office as set forth in the Grand Lodge Constitution, particularly Article XXV, Sec-

tion 3 thereof, I find the Defendant in these proceedings has supported a movement dual in purpose to the International Association of Machinists and in violation of the Grand Lodge Constitution. While it is agreed that the Defendant has a right to think as he chooses, the Grand Lodge Constitution governing our organization makes it obligatory to deny membership in our Association to anyone who assists or encourages the Communist Movement.

I am therefore setting aside the decision of the Lodge in this matter and, based upon the record in the case, I find the Defendant guilty and hereby expel him from membership in our Association. The expulsion of Defend-
210 ant Al Friedman from membership in our Association shall be effective as of this date. In the event the Defendant should apply for reinstatement in our Association at a subsequent date, such application cannot be acted upon without the unanimous approval of the Grand Lodge Executive Council.

Fraternally yours,

/s/ A. J. HAYES
A. J. Hayes
International President

cc: Weber
Siemiller
Peterson
District No. 9
Friedman

211 EXHIBIT C-6

Affiliated with the American Federation of Labor
INTERNATIONAL ASSOCIATION OF MACHINISTS
OFFICE OF GRAND LODGE—Machinists Bldg.
Washington, D. C.

OFFICIAL CIRCULAR No. 183.

EXECUTIVE COUNCIL RULES WORKERS' (COMMUNIST) PARTIES AND TRADE UNION EDUCATIONAL LEAGUE DUAL ORGANIZATIONS

August 15, 1925.

To the Officers and Members of all Local Lodges
of the International Association of Machinists.

Dear Sirs and Brothers:

During the month of March, 1924, charges were preferred in Lodge No. 105, of Toledo, Ohio, against seven (7) members of that Lodge on the ground that these members had violated the provisions of Article XXII of the Constitution of the International Association of Machinists.

The charges were preferred by members of Lodge No. 105, and were based on the fact that the seven members in question were also members of the so-called "Workers' Party" and of the so-called "Trade Union Educational League," which organizations it was charged were antagonistic and of a dual nature to the International Association of Machinists.

After due trial under the provisions of the Code of our Constitution these men were found guilty as charged. The penalty imposed by Lodge No. 105 was, that each of them be fined in the sum of Fifty Dollars ($50.00) and suspended from membership in the International Association of Machinists for a period of one year. It was further provided that at the expiration of one year that they would have to furnish satisfactory proof that they had relinquished membership in the Workers' Party and Trade Union Educa-

tional League before full rights and privileges in the International Association of Machinists would be restored to them.

In due course an appeal was taken by these seven men from the decision of Lodge No. 105 to the International President. The International President sustained the decision of the Lodge. An appeal was then taken from the decision of the International President, which had the effect of sustaining the decision of Lodge No. 105.

The following paragraph is contained in the General Executive Board's decision:

"That regardless of the published aims and purposes of the Workers' or Communist Party and the Trade Union Educational League their respective practices as disclosed by the evidence in this case clearly indicates that their ultimate purpose is the destruction of the Trade Union Movement of America, and that their varied secret activities in the labor world constitute each of these organizations dual organizations to the International Association of Machinists within the meaning of the term as set forth in the Constitution, Article XXII."

An appeal was then taken by these men from the decision of the General Executive Board to the Grand Lodge Convention held in Detroit, Michigan, during the month of September, 1924. The Convention voted to sustain the decision of the General Executive Board.

The consecutive decisions in this case from that of the Local Lodge up to and including that of the Grand Lodge Convention, which is the highest tribunal of the International Association of Machinists, can leave no room for doubt as to the will of our membership, so far as it has been expressed, regarding the Workers' Party and the Trade Union Educational League.

With this record clearly before us and in the light of recent events whereby our internal affairs have been frequently exploited in the Daily Worker and the Workers'

Monthly, the official organs of the Workers Party and of the Trade Union Educational League, demonstrates beyond any reasonable doubt that members of the Workers' Party and of the Trade Union Educational League, who also have membership in the International Association of Machinists, are using their membership in our Association as a blind to bore from within and to eventually try and wreck it. The avowed activities of the men referred to are to be conducted by continually fomenting strife, discord and turmoil within our ranks, with the hope of bringing about a state of complete chaos.

212 With the determination to put an end to the above mentioned activities, your Executive Council, which was in session from July 1 to 12, 1925, inclusive, adopted a motion to the following effect:

1. That the Trade Union Educational League, the Workers or Communist Party, the Young Peoples' League, or Young Workers' League are antagonistic in character and dual in nature to the International Association of Machinists.

2. That all members of the International Association of Machinists who are also members of any of the said dual organizations be given a 60-day notice within which they shall sever all connections with the said dual organizations, or relinquish their membership in the International Association of Machinists.

We feel that the above action on our part was made mandatory by the Detroit Convention. And we hope that those who may be desirous of obtaining further information on the subject will refer to Pages 22 to 37 of the Minutes of the Executive Sessions of the Convention. All of our Lodges have been furnished a copy of these Minutes.

In accordance with the above all of our Lodges and all of our members are hereby notified that on and after October 15, 1925, no member of the International Association of Machinists can hold membership in or affiliation with

any of the forementioned dual organizations and continue his membership in our Association.

Fraternally submitted,

/s/ Wm. H. Johnston
Intl. President.

/s/ E. C. Davison
Gen. Sec. Treas.

P. J. Conlon,
J. T. Thorpe,
H. F. Nickerson,
H. W. Brown,
Robt. Fechner,
W. H. Hannon,
Jas. Somerville,
Executive Council International Association of Machinists.

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213 EXHIBIT C-7

INTERNATIONAL ASSOCIATION OF MACHINISTS
OFFICE OF GRAND LODGE
MACHINISTS BUILDING
WASHINGTON 1, D. C.

Official Circular No. 474

February 6, 1947

DECLARATION OF POLICY REGARDING MEMBERSHIP IN OR SUPPORT OF TOTALITARIAN ORGANIZATIONS

To the Officers and Members of All Local Lodges of the I. A. of M., Greetings:

Official Circular No. 183 issued August 15, 1925, set forth the policy action of the Executive Council in naming the

Trade Union Educational League, The Workers' (Communist) Party, The Young Peoples' League or Young Workers' League as organizations antagonistic in character and dual in nature to the International Association of Machinists: The policy declaration was pursuant to action taken by the Convention of the I. A. of M., held in Detroit, Michigan, September, 1924.

The closing declaration in Official Circular No. 183 states: "In accordance with the above, all of our lodges and all of our members are hereby notified that on and after October 15, 1925, no member of the International Association of Machinists can hold membership in or affiliation with any of the forementioned dual organizations and continue his membership in our Association."

More than a score of years has elapsed since the issuance of this policy declaration by the Executive Council. Today, Communism and other totalitarian ideologies pose an even greater threat to the Free Nations of the World, the International Association of Machinists and all other Free Trade Unions.

Communism, Fascism and Nazism are not just political ideologies of the countries with which they are identified. These three and all other similar groups which seek to attain their ends by forcible overthrow of all existing institutions, the Constitution of the United States, and the abolition of private property are dual in nature and contrary to the ideals and principles set forth in the Constitution of the International Association of Machinists.

Advocates of totalitarianism proclaim that the people exist for the good of the state. The International Association of Machinists holds and will forever cherish and protect the principle of the state existing for the good of the people.

Therefore, in order to further safeguard our free trade union and our way of life, the Executive Council, in a session which convened January 13, 1947, in Washington, D. C., unanimously adopted the following motions to sup-

plement and strengthen its August 15, 1925, policy declaration:

That any individual who advocates or encourages Communism, Fascism, Nazism, or any other totalitarian philosophy, or who, by other actions, gives support to these "philosophies" or "isms" is not eligible to membership in the I. A. of M.

That any member of the International Association of Machinists who advocates or encourages Communism, Fascism, Nazism, or any other totalitarian philosophy, or who, by other actions, gives support to these "philosophies" or "isms" is subject to the charge of "improper conduct" and trial under "Article K—Code"—and if guilty shall be expelled.

214 It is expected that every local and district lodge, as well as the entire membership will take due notice of the announced policy and be governed accordingly.

Fraternally submitted,

By Order of the Executive Council

/s/ Eric Peterson
General Secretary-Treasurer.

/s/ H. W. Brown
International President.

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215 D. Documents Relating to Appeal of Al Friedman to Executive-Council of International Association of Machinists From Decision of President Expelling Al Friedman From Membership in the Association.

1. Exhibit D-1 Appeal of Al Friedman, dated May 9, 1952, to Executive Council of Association from decision of President of Association expelling him from membership.

2. Exhibit D-2 Letter of Al Friedman, dated May 10, 1952, informing President of Association of his appeal.

3. Exhibit D-3 Request of Al Friedman, dated May 10, 1952, for a stay of the expulsion order pending appeal to the Executive Council.

4. Exhibit D-4 Reply to Al Friedman by Secretary-Treasurer of Association, dated May 14, 1952.

5. Exhibit D-5 Letter from Secretary-Treasurer of Association to Secretary of local lodge with respect to appeal, dated May 14, 1952.

6. Exhibit D-6 Request of Al Friedman, dated May 19, 1952, to appear before Executive Council.

7. Exhibit D-7 Letter of Secretary-Treasurer of Association, dated May 20, 1952, to Al Friedman.

8. Exhibit D-8 Letter of Secretary-Treasurer of Association to Al Friedman, dated June 3, 1952.

9. Exhibit D-9 Request of attorneys of Al Friedman to Executive Council to file brief and for thirty days to file it.

10. Exhibits D-10, D-11, D-12, D-13, D-14 Correspondence between attorneys for Al Friedman and Secretary-Treasurer of Association with respect to the appeal to the Executive Council.

11. Exhibit D-15 Brief in behalf of Al Friedman, dated July 3, 1952, in support of his appeal to Executive Council.

12. Exhibit D-16 Acknowledgment of receipt of brief.

13. Exhibit D-17 Notification to Al Friedman, dated July 22, 1952, that Executive Council affirmed his expulsion from membership in Association.

14. Exhibit D-18 Notification to attorneys for Al Friedman, dated July 22, 1952, of Executive Council's decision.

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EXHIBIT D-1

May 9, 1952

Subject: Case of Weber vs. Friedman
Lodge No. 688
St. Louis, Mo.

Mr. Eric Peterson
General Secretary Treasurer
International Association of Machinists
Machinists Bldg.
Washington 1, D. C.

Dear Sir and Brother:

I have received a copy of the decision of the International President, Mr. Hayes, in the case of Weber vs. Friedman. I consider the decision contrary to the Constitution and am taking an appeal to the Executive Council as provided in Section 6 of Article XXV of our Constitution. Will you please advise me at your earliest convenience of the rules and requirements governing such an appeal.

In prosecuting my appeal, I wish to have an opportunity to present the reasons why I consider the decision to be contrary to the Constitution. I would also like to know whether it is permissible for me to appear in person or through counsel of my choice to argue my appeal.

Fraternally

/s/ Al Friedman
Al Friedman

5841 DeGiverville Ave.
St. Louis 12, Mo.

217

EXHIBIT D-2

May 10, 1952

Subject: Weber vs. Friedman
Lodge #688
St. Louis, Mo.

Mr. A. J. Hayes, International President
International Association of Machinists
Machinists Building
9th St. and Mt. Vernon Place, N. W.
Washington 1, D. C.

Dear Sir and Brother:

This is to inform you that I am appealing to the Grand Lodge Executive Council your decision in which you set aside the decision of Lodge 688 and order my expulsion from the International Association of Machinists. I am taking this appeal on the grounds that your decision is contrary to our Constitution.

I am hereby requesting that your expulsion order be stayed and that I be permitted to continue to exercise all rights of membership while my appeal is pending before the Executive Council.

Fraternally yours,

/s/ Al Friedman
Al Friedman

5841 DeGiverville Ave.
St. Louis 12, Mo.

218

EXHIBIT D-3

May 10, 1952

Subject: Weber vs. Friedman
Lodge #688
St. Louis, Mo.

Mr. Eric Peterson
General Secretary Treasurer
International Association of Machinists
Machinists Building
Washington 1, D. C.

Dear Sir and Brother:

I am requesting, through you, that the Executive Council stay the expulsion order of International President Hayes in the above case, in order that I may continue to exercise all the rights of membership while my appeal is pending.

Fraternally yours,

/s/ Al Friedman
Al Friedman

5841 DeGiverville
St. Louis 12, Mo.

219

EXHIBIT D-4

INTERNATIONAL ASSOCIATION OF MACHINISTS

MACHINISTS BUILDING
NINTH ST. & MT. VERNON PL., NW.
WASHINGTON 1, D. C.

L-EP

May 14, 1952

Mr. Al Friedman
5841 DeGiverville Avenue
St. Louis 12, Missouri

Dear Sir and Brother:

Your letter of May 9, taking an appeal from the International President's decision of May 5 in the case of Weber vs. Friedman, Lodge No. 688, is acknowledged.

In reply to your request for information concerning the rules and requirements governing such an appeal, be advised that the arguments and reasons to be presented by you in support of the appeal must necessarily be confined to the transcribed record of the case and should be presented in written form within a reasonable length of time.

Your inquiry as to whether or not it is permissible for you to appear before the Executive Council in person, can be answered by pointing out that this is a matter on which the Executive Council, itself, has to rule. It may be helpful to point out that very seldom does the Executive Council grant that type of request, inasmuch as it is considered that a member appealing a decision from the International President has ample opportunity of presenting in written form, all of his reasons why the decision should be set aside.

In response to the request presented in your letter of May 10, that the Executive Council stay the expulsion order of International President Hayes in order that you may continue to exercise all of the rights of membership while appealing your case, be advised that in conformity with Section 10, Article K of the Grand Lodge Constitution, while you are exercising your right of appeal, your financial standing shall not be impaired by refusal to accept dues or per capita tax until after the Executive Council has passed upon the appeal. By taking an appeal from the International President's decision, you are automatically entitled to the right prescribed by the Section of the Constitution referred to.

Fraternally yours,

/s/ Eric Peterson
Eric Peterson
General Secretary-Treasurer

CC: Hayes
Siemiller
District 9
Lodge 688—R.S.

220

EXHIBIT D-5

May 14, 1952

L-EP

Lodge No. 688

Mr. John P. DeMoor
Financial Secretary
5208 Holly Hills Avenue
St. Louis 9, Missouri

Dear Sir and Brother:

We are in receipt of a letter dated May 9, from Brother Al Friedman, wherein he takes an appeal from International President Hayes' decision of May 5, in the case of Weber vs. Friedman, Lodge No. 688.

Pending disposition by the Executive Council of Brother Friedman's appeal you, of course, will be governed by Section 10, Article K of the Grand Lodge Constitution, which provides that the financial standing of a member exercising his right of appeal, shall not be impaired by refusal to accept dues or per capita tax until after the Executive Council has passed upon the appeal.

With best wishes, I remain

Fraternally yours,

ERIC PETERSON
General Secretary-Treasurer

CC: Hayes
Siemiller
Sec.-Treas. Dist. 9
Friedman

221

EXHIBIT D-6

May 19, 1952

Executive Council
Grand Lodge
International Association of Machinists
Machinists Building
Washington 1, D. C.

c/o Eric Peterson, General Secretary-Treasurer

Dear Sirs and Brothers:

I am taking an appeal from the decision of the International President in the case of Weber vs. Friedman, Lodge No. 688, dated May 5, 1952. In prosecuting my appeal, I would like to have an opportunity to appear before the Executive Council in person, together with counsel of my choice, in order to argue my appeal. I have been advised by the General Secretary-Treasurer that a request to appear personally before the Executive Council should be addressed to the Executive Council.

I am preparing an appeal in written form which I shall file as soon as it is completed.

Fraternally yours,

/s/ Al Friedman

5841 DeGiverville Ave.
St. Louis 12, Mo.

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EXHIBIT D-7

(SEAL)

INTERNATIONAL ASSOCIATION OF MACHINISTS
MACHINISTS BUILDING
NINTH STREET AND MT. VERNON PLACE, N.W.
WASHINGTON 1, D.C.

May 20, 1952

Subject: Case of Weber vs. Friedman Lodge No. 688

Mr. Al Friedman
5841 DeGiverville Ave.
St. Louis 12, Missouri

Dear Sir and Brother:

Under date of May 12 a letter was directed to International President A. J. Hayes from Brother John F. Graf, Recording Secretary of Lodge No. 688, with which was enclosed a copy of your letter of May 9 addressed to Brother Henry Eves, President of Lodge No. 688. This correspondence has been referred to my office for reply.

In your letter to Brother Eves you request that you be permitted to "exercise all rights of membership" while your appeal in the subject case is pending before the Executive Council. In Brother Graf's letter of May 12 he inquires as to your rights as a member while your appeal is pending. Under date of May 14 I advised you of your rights during your appeal, and sent copies of my decision in this matter to International President Hayes, General Vice President Siemiller, District No. 9, and to the Recording Secretary of Lodge No. 688.

As your letter of May 10 to International President Hayes indicates clearly that you intend to take an appeal, you are advised that your right of appeal is permissive in character and should be made within a reasonable period of time. Because of the serious nature of the charges in

this case and the findings of the International President thereto, you are advised that a reasonable period of time to file an appeal, if you intend to do so, must be within thirty days from the date of receipt of this letter; or, if an additional period of time is required for the preparation of your appeal, such request must be made in writing to me, for action by the Executive Council, within two weeks from this date.

223 If there is no further evidence, or matters that you wish to present or have presented to the Executive Council in this matter, I will construe, unless I hear from you to the contrary within the next two-week period, your letter of May 9 to International President Hayes, together with the file and record in this case, will constitute your appeal to the Executive Council.

Fraternally yours,

ERIC PETERSON
General Secretary-Treasurer

P/mk

cc: Hayes
Siemiller
District No. 9
R. S., Lodge No. 688

224

EXHIBIT D-8

INTERNATIONAL ASSOCIATION OF MACHINISTS
MACHINISTS BUILDING
NINTH STREET AND MT. VERNON PLACE, N. W.
WASHINGTON 1, D. C.

COPY
P-P

June 3, 1952

Mr. A. Friedman
5841 DeGiverville Avenue
St. Louis 12, Missouri

Dear Sir and Brother:

In reply to your letter of May 19, addressed to the Executive Council, wherein you request an opportunity to appear before the Council in person, together with counsel of your choice, in order to argue your appeal from the decision of the International President in the case of Weber vs. Friedman, Lodge No. 688, dated May 5, 1952, you are now advised that your request was placed before the Council and after due consideration they voted not to grant your request.

I refer you to the last two paragraphs of my letter of May 20, and suggest that you submit your arguments and reasoning in support of your appeal in writing within the time limit referred to, so your case can be handled without further delay.

Fraternally yours,

/s/ ERIC PETERSON
Eric Peterson
General Secretary-Treasurer

CC: Executive Council
District No. 9
R. S., Lodge No. 688

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EXHIBIT D-9

SMITH, HARRIS & HANKE
ATTORNEYS AND COUNSELORS
SUITE 808 AMBASSADOR BUILDING
411 NORTH SEVENTH ST.
ST. LOUIS 1, MO.

June 5, 1952

Subject: Case of Weber vs. Friedman, Lodge No. 688

Executive Council
International Association of Machinists
Ninth St. and Mt. Vernon Pl., N. W.
Washington 1, D. C.

Attention, Eric Peterson, General Secretary-Treasurer

Gentlemen:

Confirming my conversation on June 2, 1952 with your General Counsel, Mr. Plato Papps, I wish to advise you that I have been retained by Al Friedman to prosecute his appeal in the above entitled case from the decision of the International President. Mr. Friedman consulted me shortly before I departed from St. Louis on May 27, 1952 for an extended trip to the East Coast. I do not expect to be back in St. Louis before June 11, 1952.

In connection with Mr. Friedman's appeal, we wish to file written briefs and would like to have thirty (30) days from today within which to file our briefs.

We would also like an opportunity to argue the appeal orally before the Executive Council and would appreciate it if you would advise us when the matter will be taken up by the Council.

Very truly yours,

/s/ LUTHER ELY SMITH, JR.

226 EXHIBIT D-10

June 9, 1952

Luther Ely Smith, Jr., Esq.
Smith, Harris and Hanke
Suite 808 Ambassador Building
411 North Seventh Street
St. Louis 1, Missouri

Case of Weber vs. Friedman
Lodge No. 688

Dear Mr. Smith:

This will asknowledge receipt of your letter of June 5, 1952, in which you advise the Executive Council that you are the attorney of record for Brother Al Friedman in connection with his appeal in the above-captioned case.

As I have previously informed Brother Al Friedman—as a matter of policy—the Executive Council of the International Association of Machinists, A.F.L. does not hear oral argument concerning the merits of an appeal to them from a decision of the International President. For this reason, your request for an opportunity to file written briefs in connection with Brother Friedman's appeal has been noted, and you are advised that the Executive Council will keep this matter open until June 26, 1952, a period of three weeks, rather than your request of thirty days.

We regret that the full thirty-day period which you seek, under the circumstances, cannot be granted, inasmuch as a considerable period of time has elapsed since the filing of notice of appeal by Brother Friedman.

Very truly yours,

/s/ Eric Peterson
General Secretary-Treasurer

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EXHIBIT D-11

SMITH, HARRIS & HANKE
Attorneys and Counselors
Suite 808 Ambassador Building
411 North Seventh Street
St. Louis 1, Mo.

June 10, 1952

Mr. Eric Peterson
General Secretary-Treasurer
International Association of Machinists
Washington, D. C.

Case of Weber vs. Friedman
Lodge No. 688

Dear Mr. Peterson:

This will acknowledge yours of June 9, 1952, addressed to Mr. Smith, who has not as yet returned to St. Louis.

As Mr. Smith informed you in his letter of June 5th, he needs thirty days in which to file his brief on behalf of Mr. Friedman. That letter would indicate that this period of time had been agreed to; although we may have misinterpreted what Mr. Smith said. However, I request again that the period of thirty days be granted.

I assume from your letter that the request to file briefs is being granted; although you do not say so definitely.

I regret that it appears impossible for us to get the briefs in on behalf of Mr. Friedman within the time allotted. I am sure that Mr. Smith would not have asked for an additional extension if it had not been necessary.

Thanking you for your cooperation herein, I am

Very truly yours,

SMITH, HARRIS & HANKE
/s/ VICTOR B. HARRIS

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EXHIBIT D-12

June 13, 1952

Mr. Victor B. Harris
Attorney at Law
Suite 808, Ambassador Building
411 North Seventh Street
St. Louis 1, Missouri

Case of Weber vs. Friedman
Lodge No. 688

Dear Mr. Harris:

This will acknowledge your letter of June 10, 1952, in answer to ours of June 9, 1952 to Luther Smith, Esq., in which you request the full thirty day period in which to file briefs concerning the above entitled matter.

Such request is noted and by and with the consent of the Executive Council, you and your associate, Mr. Smith, are granted until July 5, 1952 in which to file briefs in support of Mr. Friedman's appeal to the Executive Council.

Yours very truly,

/s/ Eric Peterson
General Secretary-Treasurer

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EXHIBIT D-13

SMITH, HARRIS & HANKE
Attorneys and Counselors
Suite 898 Ambassador Building
411 North Seventh Street
St. Louis 1, Mo.

June 16th, 1952

Mr. Eric Peterson,
General Secretary-Treasurer,
International Association of Machinists,
Washington, D. C.

Case of Weber vs. Friedman
Lodge No. 688

Dear Mr. Peterson:

Your letter of June 9th, 1952, with reference to the above named case was awaiting me upon my return to St. Louis. I have also seen my partner, Mr. Harris' letter to you of June 10th, 1952. I am sure you will appreciate the fact that when one is out of town for an extended trip there are many things requiring immediate attention upon returning. It is for this reason that I would be deeply grateful if the executive council would see its way clear to granting the thirty days which I requested in my letter to you of June 5th, 1952.

The International President in his decision dated May 5th, 1952, refers on page 9, to two official circulars—official circular #183 dated August 15, 1925, and official circular #474 dated February 6th, 1947.

We would greatly appreciate it if you would furnish or loan us copies of both circulars.

Very truly yours,

SMITH, HARRIS & HANKE
/s. LUTHER ELY SMITH, JR.
Luther Ely Smith, Jr.

LFS:L.

230 EXHIBIT D-14

P-P June 19, 1952

Mr. Luther Ely Smith, Jr.
Smith, Harris & Hanke
Suite 808 Ambassador Building
411 North Seventh Street
St. Louis 1, Missouri

Dear Mr. Smith:

In response to the request contained in your letter of June 16, I am enclosing Official Circulars Nos. 183 and 474.

Our letter of June 13 to Mr. Harris, which apparently did not come to your attention, advised that the time in which to file briefs in support of Mr. Friedman's appeal.

Very truly yours,

ERIC PETERSON
General Secretary-Treasurer

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EXHIBIT D-15

SMITH, HARRIS & HANKE
Attorneys and Counselors
Suite 808 Ambassador Building
411 North Seventh Street
St. Louis 1, Mo.

July 3rd, 1952

Executive Council,
International Association of Machinists,
Machinists' Building,
Washington 1, D. C.

Attention Mr. Eric Peterson
General Seeretary & Treasurer.

Re: Weber v. Friedman,
Lodge No. 688,
St. Louis, Mo.

Gentlemen:

We are enclosing herewith eighteen (18) copies of our Appeal in the above entitled case.

Very truly yours,

SMITH, HARRIS & HANKE
/s/ LUTHER ELY SMITH, JR.

LES:l
Enc.

232 July 3, 1952

Executive Council
Grand Lodge
International Association of Machinists
Machinists Building
Washington 1, D. C

Weber v. Friedman,
Lodge No. 688,
St. Louis, Mo.

Gentlemen:

This is an appeal from the decision of the International President in the case of Weber v. Friedman, Lodge No. 688, St. Louis, Mo. The appeal is based on the following grounds:

1. The International President was without authority to consider the appeal from the decision of Lodge No. 688 since the Constitution of the Grand Lodge does not provide for an appeal by a prosecuting witness from a decision finding a defendant *not guilty.*

2. Even if the prosecuting witness could appeal, the decision of the International President is illegal for the following reasons:

a. The International President found the defendant guilty of an offense different from that with which he was charged.

b. Expulsion can be imposed only by a two-thirds vote of the membership of the local lodge.

c. There is no evidence that the defendant advocated, encouraged or supported Communism after the Constitution was amended effective April 1, 1949.

d. There is no substantial evidence that the defendant advocated, encouraged or supported Communism at any time.

Statement

On March 14, 1952, Lloyd Weber filed charges against Al Friedman. The entire charge reads as follows:

> "Lloyd Weber, Card No. 464197, Member of Lodge 787, District Number 9, hereby prefers charges against Brother Al Friedman, Card No. H-93065, Member of Lodge 688, for violation of Article XXV, Section 2 of the Constitution of Grand Lodge of I.A. of M. Specifically I charge this Brother with advocating, encouraging and supporting Communism, and also with being a member of the Communist Party."

On March 24, 1952, a trial was held before a Trial Committee.

On March 28, 1952, at a regular meeting of Lodge 688 the Trial Committee submitted its report to the membership as follows:

233 "We, the members of the trial committee of the case of Lloyd Weber versus Al Friedman have after long and serious deliberation and much discussion of the evidence presented find the defendant not guilty as charged due to lack of sufficient and positive evidence."

Thereupon the members voted on the defendant's guilt as follows:

Not Guilty	95
Guilty	26

Thereafter, Lloyd Weber on April 10, 1952, filed "an appeal" with the International President. No copy of the "appeal" was furnished defendant.

On May 5, 1952, *without hearing defendant*, the International President set aside the decision of the Lodge, found defendant guilty and ordered his expulsion.

On May 9, 1952, defendant notified the Grand Lodge Secretary-Treasurer that he was appealing to the Executive Council and asked that the decision of the International President be stayed pending the appeal.

May 14, 1952, the International President advised defendant that the expulsion order was automatically stayed pending defendant's appeal to the Executive Council.

Defendant objected to the "appeal" taken by the prosecuting witness from the local lodge's finding of not guilty. The International President disregarded this objection and wrote defendant on May 2, 1952, saying that it was the policy of the International Association of Machinists to allow plaintiffs to appeal. On May 9, 1952, and again on May 19, 1952, defendant wrote the International President requesting information as to other cases wherein an appeal by a plaintiff had been entertained. The International President answered both letters, but refused to furnish the information requested.

I

The International President Was Without Authority to Consider the Appeal Since the Constitution Does Not Provide For an Appeal by a Complainant From a Decision of a Local Lodge.

It is fundamental concept of a free country that, once a defendant is found not guilty, he cannot be tried again for the same offense.

234 While the trial in the present case is not strictly speaking a criminal proceeding, since it is brought by a brother in the International Association of Machinists rather than by the State, it is in the nature of a criminal proceeding. Defendant has been charged with advocating, encouraging and supporting Communism. This is a crime. 18 U.S.C.A. Sec. 2385; *Dennis* v. *United States*, 341 U.S. 494, 71 S. Ct. 857 (1951).

The punishment decreed by the International President is almost as devastating in its effect on the defendant and his family as would be a jail sentence. As a Tool and Diemaker, defendant belongs to a highly skilled trade and one that is almost completely organized. If the expulsion order of the International President is allowed to stand, defend-

ant will be unable to obtain employment in his trade with disastrous effects for himself and family.

The Trial Committee, which heard the evidence and had an opportunity to observe the demeanor of the witnesses and to determine their credibility, unanimously found the defendant "*not guilty* as charged due to *lack of sufficient and positive evidence.*" Then by a vote of 95 to 26, defendant was found not guilty by his own Lodge. The International President set aside this finding of not guilty; and, without so much as a word to the defendant, substituted his judgment for that of the Trial Committee and the membership of the Lodge, found the defendant guilty and expelled him from the Lodge. What could be more dictatorial? It is similar to the People's Courts established by the Nazis and Communists, where the State could appeal from a judgment of acquital. It is completely alien to the democratic concept of the rights of the individual. It renders meaningless the elaborate provisions of Article K of the Constitution which sets forth the trial procedure.

An appeal is for the purpose of insuring that any errors that may have been committed during the trial may be corrected. It is not for the purpose of permitting the International President to re-try the case himself and to set aside a finding of not guilty and substitute a finding of guilty.

235

II

The International President Found Defendant Guilty of an Offense Different Than That With Which He Was Charged.

It is fundamental that a person may not be found guilty of an offense with which he has not been charged.

Defendant, in the instant case, was charged with "advocating, encouraging and supporting Communism and also with being a member of the Communist Party." The International President found him guilty of an entirely different offense; that of having "supported a movement dual

in purpose to the International Association of Machinists".

It is apparent from an examination of Section 2 of Article XXV that advocating or encouraging Communism is a different and separate offense from advocating or encouraging a dual labor movement.

Section 2 sets forth four offenses that are deemed "conduct unbecoming a member". They are:

1. To attempt to inaugurate or encourage secession from the Grand Lodge or any local lodge;

2. To advocate, encourage or attempt to inaugurate any dual labor movement;

3. To violate the provisions of the Constitution of the Grand Lodge, or the Constitution for Local Lodges;

4. To advocate or encourage Communism, Facism, Nazism, or any other totalitarian philosophy or by other actions to give support to these "philosophies" or "isms".

Each of these four offenses is separate and distinct. Prior to 1948, Section 2 of Article XXV set forth only three separate and distinct offenses. But in 1948 Section 2 was amended by adding the following language: "or any member who advocates or encourages Communism, Facism, Nazism, or any other totalitarian philosophy, or who, by actions gives support to these 'philosophies' or 'isms'." Proceedings 22d Convention, I.A.M. p. 339. This amendment became effective April 1, 1949.

Certainly, if the offense of advocating and encouraging Communism was included in the offense of advocating and encouraging dual labor movement, there was no reason whatever to amend Section 2. The 1948 Convention
236 obviously was of the opinion that Section 2 of Article XXV, as it then read, did not include advocating and encouraging Communism and therefore adopted the amendment quoted above.

Consequently, since Friedman was charged with advocating and encouraging Communism, he cannot be found guilty of supporting a movement dual in purpose.

III

Moreover, the Punishment of Expulsion Can Be Imposed Only by a Two-thirds Vote of the Membership of the Local Lodge.

The most drastic penalty that can be imposed on a member is expulsion. Expulsion deprives a member of the means of earning a living in his trade for himself and family. In order to safeguard the rights of members and to assure that expulsion will not be ordered irresponsibly, it is provided in Section 7 of Article K of the Constitution that expulsion can be ordered only by a two-thirds vote of the voting members of the local lodge. There is apparently an exception in the case of a member guilty of joining or participating in a dual organization (see Section 3 of Article XXV), but this exception is not applicable here as defendant was not charged with that offense and therefore could not legally be found guilty of it. The International President's finding that Friedman was guilty of supporting a movement dual in purpose, an offense with which defendant was not charged, is plainly illegal and contrary to the Constitution, particularly Section 4 of Article XXV and Section 1 of Article K both of which require that written charges be filed with the President of the local lodge and that a copy of such charges be supplied the defendant. The International President's action is an illegal attempt to circumvent the requirement that expulsion for the offense with which defendant was charged can be ordered only by a two-thirds vote of the membership of the local lodge.

IV

There Is Not a Scintilla of Evidence That Friedman Advocated, Encouraged or Supported Communism After the Constitution Was Amended, Effective April 1, 1949.

It is our position that the findings of the Trial Committee and of the local lodge are supported by the weight of the evidence; that they properly disregarded certain

237 hearsay evidence and testimony of unreliable witnesses; and that the International President erred in setting aside these findings of not guilty.

There is not a scintilla of evidence that Friedman had anything to do with Communism after the adoption of the 1948 amendment, which added to Section 2 of Article XXV the offense of advocating, encouraging, or supporting Communism. The chief prosecution witness, Thomas A. Younglove, testified concerning certain alleged activities of Friedman, but all of his testimony concerned 1947 and prior years. In this connection, it is important to note that Younglove, in his testimony in the case of *United States* v. *Dennis, et al.*, in which the eleven top Communist leaders in the United States were tried in New York, testified that he ceased having anything to do with the Communist party in 1947. Younglove testified that the last of the many reports he made to the F.B.I. was on March 15, 1947. There thus is not a shred of testimony linking Friedman to any Communist activity after 1947.

The 1948 amendment to Section 2 of Article XXV provides that "any member who advocates or encourages Communism * * * or who, by other actions gives support to these 'philosophies' or 'isms' shall, upon conviction thereof, be deemed guilty of conduct unbecoming a member." The present tense is used throughout, and negatives the thought that a member could be charged because of acts occuring prior to the adoption of the amendment. There is no attempt to condemn prior conduct, as is now sometimes done where an individual is disqualified from a position or denied a privilege, because, at some time in the past, he had been connected with a totalitarian movement. Cf. Section 22 of the Internal Security Act of 1950, 8 U.S.C.A. Sec. 137(2) which provides for the exclusion from admission into the United States of "aliens who, *at any time*, shall be or *shall have been* members" of various subversive classes.

V

There Is No Substantial Evidence That the Defendant Advocated, Encouraged or Supported Communism at Any Time.

While the record does contain certain statements
238 of prosecuting witnesses attributing certain activities in support of Communism to defendant, a careful reading of the record shows that all of such statements are hearsay or were subsequently contradicted or so qualified that they become virtually meaningless. All of such statements were denied by defendant. And, most important of all, the Trial Committee, who had an opportunity to observe the witnesses and whose province it was to weigh the evidence and to determine the credibility of the witnesses and to resolve conflicting testimony, found that there was a lack of sufficient and positive evidence to support the charges. There is substantial evidence to support this finding. On such a record an appellate tribunal has no right to disturb the findings of the Trial Committee. The International President erred in setting it aside and substituting his own finding for which there is no substantial evidence.

Conclusion

It is submitted that the International President erred in the following particulars:

1. He erred in entertaining the appeal of the complainant from a finding of not guilty.

2. He erred in finding defendant guilty of an offense with which he was not charged.

3. He erred in ordering the expulsion of defendant, which can be done only by a two-thirds vote of the local lodge.

4. He erred in disregarding the fact that there is not a scintilla of evidence of any act of defendant occuring after the adoption of the 1948 amendment to the Constitution,

and in considering evidence of activities that occured prior thereto.

5. He erred in setting aside the finding of the Trial Committee which was supported by substantial evidence and submitting his own finding which is not supported by substantial evidence.

It is submitted that the decision of the International President should be set aside and the findings and decision of the Trial Committee and the Local Lodge should be reinstated.

SMITH, HARRIS & HANKE
Attorneys for Defendant

By .....
LUTHER ELY SMITH, JR.
411 N. 7th Street
St. Louis 1, Mo.

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239 EXHIBIT D-16
L-MRS July 10, 1952

Luther Ely Smith, Jr., Esq.
Smith, Harris & Hanke
Suite 808 Ambassador Building
411 North Seventh Street
St. Louis 1, Missouri

Dear Mr. Smith:

This will acknowledge receipt of your letter of July 3, accompanied by 18 copies of the brief submitted in behalf of Al Friedman.

We are submitting these briefs to the Members of the Executive Council and upon receipt of their decision, Al Friedman will be notified accordingly.

Very truly yours,

M. R. STERNS
Assistant General Secretary-Treasurer

240 EXHIBIT D-17

INTERNATIONAL ASSOCIATION OF MACHINISTS
MACHINISTS BUILDING, NINTH STREET AND
MT. VERNON PLACE, N.W.
WASHINGTON 1, D.C.

REGISTERED
P-P

COPY

Mr. Al Friedman
5841 DeGiverville Ave.
St. Louis 12, Missouri

July 22, 1952

Dear Sir:

The brief filed July 3, 1952, in your behalf by the law firm of Smith, Harris & Hanke, addressed to the Executive Council, appealing from the May 5 decision of International President A. Q. Hayes, in the case of Weber vs. Friedman, Lodge No. 688, was placed before the Executive Council in due course, together with the International President's written decision of May 5, 1952.

Consideration of the facts and reasoning presented in the documents referred to resulted in the Executive Council voting to sustain the decision of the International President.

You are hereby formally notified that as a result of the Executive Council upholding the decision of the International President, your expulsion from membership in the I. A. of M. becomes effective as of this date—July 22, 1952—and our records have been so indicated.

Very truly yours,

/s/ ERIC PETERSON
Eric Peterson
General Secretary-Treasurer

CC: Hayes (IP)
Weber (BR)
Sec.—District 9
R. S. and F. S. of Lodge 688
Executive Council Members

241 EXHIBIT D-18

P-P July 22, 1952

Smith, Harris & Hanke
Attorneys at Law
Suite 808, Ambassador Building
411 North Seventh Street
St. Louis 1, Missouri

Gentlemen:

For your information, we are enclosing herewith copy of the letter we addressed to Mr. Al Friedman, informing him of the Executive Council's decision on his appeal from the decision rendered May 5 by International President A. J. Haynes in the case of Weber vs. Friedman, Lodge No. 688.

Very truly yours,

ERIC PETERSON
General Secretary-Treasurer

CC: Friedman

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242 E. DOCUMENTS RELATING TO APPEAL OF AL FRIEDMAN TO CONVENTION OF INTERNATIONAL ASSOCIATION OF MACHINISTS FROM DECISION OF EXECUTIVE COUNCIL OF ASSOCIATION AFFIRMING ACTION OF PRESIDENT OF THE ASSOCIATION IN EXPELLING AL FRIEDMAN FROM MEMBERSHIP IN THE ASSOCIATION.

1. Exhibit E-1—Al Friedman's notice, dated August 8, 1952, of his appeal from the Executive Council's decision to the Convention of the Association.

2. Exhibit E-2—Acknowledgment of Appeal to Convention.

3. Exhibits E-3, E-4, E-5, E-6—Correspondence relating to Al Friedman's appeal.

4. Exhibit E-7—Report to the Convention of the Appeals and Grievance Committee of that body on its review of Al Friedman's appeal, and adoption of report by Convention.

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243 EXHIBIT E-1

St. Louis, Missouri
August 8, 1952

Mr. Eric Peterson
General Secretary-Treasurer
International Association of Machinists
Machinists Building
Ninth Street & Mt. Vernon Place, N. W.
Washington 1, D. C.

Dear Sir:

Please be advised that I wish to appeal to the convention of the Grand Lodge the decision of the Executive Council upholding the decision of the International President expelling me as a member of the Union. Since all such appeals "shall be laid before the body to whom addressed through the General Secretary-Treasurer", I hereby request that you proceed accordingly.

I also request that I have adequate opportunity to appear before the convention to present my case.

Yours truly,

/s/ Al Friedman
Al Friedman.

244 EXHIBIT E-2

P- August 12, 1952

Mr. Al Friedman
5841 DeGiverville
St. Louis 12, Mo.

Dear Sir:

This is to acknowledge your letter of August 8, appealing this Executive Council's decision to the 23rd Grand Lodge Convention.

Your appeal, together with the entire file in your case, will be turned over to the Appeals and Grievance Committee for review, and that Committee will make its report to the convention for final action.

Very truly yours,

ERIC PETERSON
General Secretary-Treasurer

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245 EXHIBIT E-3

5841 DeGiverville Ave.
St. Louis, Missouri
August 20, 1952

Mr. Eric Peterson
General Secretary-Treasurer
International Association of Machinists
Machinists Building
Washington, D. C.

Dear Sir:

Your letter of August 12, 1952, has been received. Since the Constitution of the Grand Lodge makes no specific provision for the Appeals and Grievance Committee, I would appreciate it if you would advise me of the present membership of this committee and also when it holds meet-

ings. I would also like to know when its report to the convention concerning my case may be expected and, further, what provision has or will be made for me to present my appeal.

Very truly yours,

/s/ Al Friedman
Al Friedman

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246 EXHIBIT E-4

P-P August 25, 1952

Mr. Al Friedman
5841 DeGiverville Ave.
St. Louis, Mo.

Dear Sir:

This is to acknowledge your letter of August 20, and while there is no reference in the Constitution to the Appeals and Grievance Committee, it has been a long established practice at Grand Lodge Conventions to create a number of committees, including an Appeals and Grievance Committee. This committee usually consists of 15 or 17 members approved by the convention after it convenes.

Inasmuch as there are several appeals to be handled by this committee, it isn't possible to advise at this time when your case will be handled by the committee, but it can be assumed that the committee will report to the convention on most of the appeals about the first day of the second week of the convention.

The committee, in handling appeal cases, has access to the entire file on each case, and has the prerogative of requesting appellants to appear before it. The procedure in each case is determined solely by the committee and, consequently, if you have any specific requests to place before

the committee you can do so by communicating with them in my care.

Very truly yours,

ERIC PETERSON
General Secretary-Treasurer

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247 EXHIBIT E-5

5841 DeGiverville Avenue
St. Louis, Missouri
August 28, 1952

Appeals and Grievance Committee
Grand Lodge Convention
C/o Mr. Eric Peterson
General Secretary-Treasurer
International Association of Machinists
Washington, D. C.

Gentlemen:

I am advised by Mr. Eric Peterson that my appeal to the Grand Lodge Convention from the order of the International President, expelling me as a member of the International Association of Machinists, will come before you. Mr. Peterson also advises me that "it can be assumed that the committee will report to the convention on most of the appeals about the first day of the second week of the convention."

Mr. Peterson also says in effect that any appearance on my part before the committee will be governed by its decision.

However, according to the Constitution, an appeal of the nature that I am taking is to the convention itself. I have asked Mr. Peterson to advise me specifically whether or not I would be permitteed to appear before the convention. I make the same inquiry of you. It seem obvious

to me that unless I am permitted to appear before the convention the provisions of the Constitution will not be complied with.

I will appreciate as prompt a response from you as is possible because it will be necessary for me to make certain personal arrangements in order to appear before the convention.

Yours very truly,

/s/ Al Friedman
Al Friedman

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248 EXHIBIT E-6

P-P

Hotel President
Kansas City, Mo.
September 2, 1952

Mr. Al Friedman
5841 DeGiverville Ave.
St. Louis, Mo.

Dear Sir:

This is to acknowledge your communications of August 28, one addressed to the Appeals and Grievance Committee of the Grand Lodge Convention, which will be presented to the Committee as soon as it is selected by the Convention.

Your statement that the Constitution provides that an appeal such as yours shall be presented to the Convention itself is apparently your interpretation of the Constitution dealing with a matter of this kind. As a matter of fact, expelled members who process their appeals to a Convention of the Grand Lodge have never been permitted the privilege of the Convention floor, but have presented their cases to the Appeals and Grievance Committee, which, in turn, makes a report to the Convention for a final decision.

This is a long established policy of our Organization, and it isn't likely that there will be any deviation from it

with respect to your case, or those of other appellants who have decided to appeal from an Executive Council decision.

As soon as the Appeals and Grievance Committee is selected by the Convention it will be furnished with all of the documents in your case, and also your request for a personal appearance before the Committeemen and it can be taken for granted that you will be promptly informed by the Committee if and when you are to appear before it.

Very truly yours,

ERIC PETERSON
General Secretary-Treasurer

CC: Appeals and Grievance Committee

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249 EXHIBIT E-7

EXCERPTS FROM "PROCEEDINGS, 23rd GRAND LODGE CONVENTION, INTERNATIONAL ASSOCIATION OF MACHINISTS"

September 16, 1952

(page 316)

TUESDAY AFTERNOON SESSION

September 16, 1952

The Convention was reconvened at 2:30 o'clock, p.m., with President Hayes presiding.

PRESIDENT HAYES: The Convention will be in order.
(page 322)

PRESIDENT HAYES: At this time the chair recognizes the secretary of the Appeals and Grievance Committee for the final report of that committee.
(pages 324, 325, 326)

DELEGATE HALE: Next is the case of Al Friedman, Card No. H93065.

APPEAL CASE NO. 6

Subject—Appeal of Al Friedman, Card No. H-93065, Lodge 688.

Al Friedman, Card No. H-93065, appealed the Executive Council's decision, which upheld the International President's decision in which he set aside the action taken by Lodge 688 and expelled the defendant from membership on the basis of charges filed against him for advocating, encouraging and supporting Communism and being a member of the Communist Party, in violation of Section 2, Article XXV, of the Grand Lodge Constitution.

Interested parties—Executive Council, Al Friedman, Lodge 688, District No. 9.

APPEAL CASE NO. 6

Subject—The appeal of Al Friedman, Card No. H93065, of Lodge 688.

The matter of Al Friedman, Card No. H93065, on appeal from the Executive Council, has been reviewed by the Committee and the records pertaining thereto reveal:

Charges were preferred against him on March 14, 1952, by a member of District Lodge No. 9. The specific charges were for violation of Article XXV, Section 2, of the Constitution as follows: Advocating, encouraging and supporting Communism and also with being a member of the Communist Party.

The Chairman of Lodge No. 688 appointed a trial committee in accordance with the Code. The trial was subsequently conducted March 24, 1952.

250 The Trial Committee reported their finding to the Local Lodge which was "Not Guilty" and this action was upheld by the Lodge. The official report of said Trial Committee is quoted for the record as follows:

"We, the members of the Trial Committee of the case of Lloyd Weber versus Al Friedman have after long and seri-

ous deliberation and much discussion of the evidence presented find the defendant Not Guilty as charged due to lack of sufficient and positive evidence."

After the above action the plaintiff, on April 10, 1952, appealed to the International President. This appeal was based on the contention that the Trial Committee and the Lodge ignored the testimony and evidence which was presented.

The International President reviewed the case as appealed by the plaintiff and on May 5, 1952 rendered his decision which was a reversal of the findings of the Local Lodge and found the defendant guilty of advocating and advancing the Communist philosophy and a movement dual in purpose and in accordance with Article XXV, Sections 2 and 3, expelled the defendant.

The defendant on May 9, 1952 appealed the decision of the International President to the Executive Council who sustained the International President's position. He then filed notice of appeal to the Convention on August 8, 1952.

The files reveal that on July 29, 1952 the appellant instituted legal proceedings for injunction and reinstatement. This legal action was dismissed by the Courts, and is attached hereto and made a part of the record.

The files contained a request by the appellant to appear before your Committee in his own behalf. Because of his request the following telegrams were dispatched and received:

"Hotel President, Kansas City, Mo.
"September 11, 1952

"Mr. Al Friedman
5841 DeGiverville
St. Louis, Mo.

"In accordance with your request you are hereby notified your case will be considered 2 P.M. Friday, September 12, Room 402, Kansas City Auditorium.

"Blair Hale, Secretary Appeals and Grievance Committee"

"St. Louis, Mo., 1952, Sept. 11

"Blair Hale
Hotel Phillips, KSC

"Would like to appear but unable to do so on such short notice.

"Al Friedman, 5841 DeGiverville St. St. Louis 12, Mo."

"Hotel President, Kansas City, Mo. September 11, 1952

"Mr. Al Friedman
5841 DeGiverville
St. Louis, Mo.

"Reurtel September 11th wish to advise time moved to 2 P.M.

Blair Hale, Secretary
Appeals and Grievance Committee"

251 The appellant did appear before your Committee. At his appearance the accused Friedman relied almost entirely on the point that the plaintiff had no right to appeal the acquittal by the Local Lodge. We find no merit in this contention in view of the provisions of Article K, Section 9, of the Constitution which provide for appeal from the decision of any local lodge. The Section does not limit appeals only from verdicts of guilty. Also appeared before this Committee Brothers Fred Spechman, William King, Henry Eves and John Graff of Lodge No. [redacted] and Brother Russell Davis, District No. 9, Brother Russell Johnson, Lodge No. 1402, and Brother James Richardson, Lodge No. 1947, as well as General Vice President P. L. Siemiller in behalf of the Executive Council.

CONCLUSION

A review of all the evidence before us: the transcript; the Decision of May 5, 1952 of the International President; and the subsequent action of the Executive Council; compels the conclusion that there is ample and sufficient evidence on the record as a whole to support the finding of a violation of Article XXV, Section 2, and warrant the verdict of Guilty and penalty of expulsion. We find and conclude that Al Friedman, at all times material herein, was a member of the Communist Party; that he advocated Communism; that he encouraged Communism; and that he gave support to Communism. As a result we conclude he merits the penalty of expulsion, and we recommend that the delegates in Convention assembled so find and conclude. To the extent, however, that the findings and conclusions of both the International President and the Executive Council may be inconsistent or in conflict with our findings, conclusions and recommendations, they are so modified.

Now, reference has been made to the contention that this matter involved double jeopardy. The Court is not impressed with that argument. Double jeopardy is a matter that refers to Federal procedure in Federal courts under a Federal statute. It is not a Federal offense. There is no charge of that sort, but it is rather a situation in which the individual complaining is a member of the organization, the rules of which are binding upon each and every individual member and to which he voluntarily submits himself.

DELEGATE HALE: Brother Chairman, I move concurrence in the committee's report.

. . . . The motion was duly seconded . . . . .

PRESIDENT HAYES: The motion is to adopt the committee's report, and the committee recommends that the decision of the Executive Council in Appeal Case 6 involving Al Friedman be sustained. Is there any discussion? All those in favor signify by saying "aye"; those opposed? Carried and so ordered.

DELEGATE HALE: Brother Chairman and Delegates, that concludes the report of the Appeals and Grievances Committee:

O. E. McNally	Lodge 238
J. W. Nance	Lodge 1015
Z. M. Church	Lodge 479
Blair Hale	Lodge 289
S. G. Goodman	Lodge 311
John Toth	Lodge 233
J. Doyle	Lodge 111
Henry E. Kaltun	Lodge 797
S. F. Crupper	Lodge 193
James McDonald	Lodge 50
V. W. Russell	Lodge 1005
J. R. McMillan	Lodge 1272
Wm. Hartman	Lodge 599
Abbot J. McKenney	Lodge 409
H. C. Summers	Lodge 735

252 In behalf of the Chairman and myself, we wish to thank the members of the committee who so diligently took care of the work assigned to us.

Brother Chairman, I move that the committee be dismissed.

. . . . . The motion was duly seconded . . . . .

PRESIDENT HAYES: The motion has been made that the committee be dismissed with the thanks of the Convention.

The Chair recognizes the delegate at mike 2.

DELEGATE CHARLES REIS (Lodge 1194): In the case of a worker accused of Communism, and he is expelled from the I. A. of M., what happens? Can he keep on working? That is what I want to find out.

PRESIDENT HAYES: It depends upon whether we have union shop agreement and if the provision of the agreement does not permit him to work, he doesn't keep on working. If he is working under a non-union shop agreement,

of course, there is nothing in our law that puts us in a position to have him discharged.

DELEGATE REIS: Even though he is not a dues-paying member, he keeps on working?

PRESIDENT HAYES: In some cases that would be true, and in some others it would not be.

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253 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52
Filed Aug. 13, 1956

AL FRIEDMAN, *Plaintiff*,

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL,
Defendants.

Plaintiff's Motion for Summary Judgment

Pursuant to Rule 56(b) of Rules of Civil Procedure, plaintiff moves for summary judgment in his favor upon the following grounds:

1. The verified allegations of the amended complaint, the affidavits attached hereto, and defendants' motion for summary judgment which necessarily concedes all of plaintiff's factual allegations, leave no issue of material fact requiring a trial.

2. The undisputed facts show plaintiff's expulsion from defendant International Association of Machinists to have been in violation of the Constitution of that organization, contrary to public policy and fair play, and contrary to well established judicial principles for the protection of the rights of members of labor unions, in the following respects:

(a) plaintiff was acquitted of the charges brought against him, both by the Trial Committee and his local Lodge, and the Constitution of defendant Union does not permit an appeal from a not guilty verdict;

(b) an appeal from a not guilty verdict is unknown in Anglo-American procedure and is contrary to public policy and fair play;

(c) the appeal from the not guilty verdicts was taken without notice to plaintiff; he was not given a copy of the extensive brief filed in support of the appeal; and did not, in fact, learn of the existence
254 of this brief until four years later when it was filed in this Court as an exhibit attached to defendants' motion for summary judgment;

(d) in reversing the two not guilty verdicts and setting them aside, the International President listened to plaintiff's accusers, but did not give plaintiff an opportunity to present his side of the controversy, nor, indeed, even inform plaintiff that the appeal was under consideration;

(e) without seeing a single witness, the International President decided that the Trial Committee and the local Lodge had "ignored" evidence, that they should have believed the oral testimony presented to them, and that plaintiff was guilty of charges brought against him and should be expelled;

(f) the Executive Council, over which the International President presided, refused to permit plaintiff to argue his appeal from the decision of the International President;

(g) the Appeals and Grievance Committee of the Grand Lodge Convention, which considered plaintiff's appeal from the decision of the International President and the Executive Council, was appointed by the Inter-

national President, and the proceedings of the Convention were completely controlled by defendants;

(h) the Appeals and Grievance Committee gave plaintiff only a cursory hearing, ordered him from the room, and then listened to one of plaintiff's accusers; and also listened to a member of the Executive Council which had previously voted against plaintiff.

3. Attached to this motion is plaintiff's affidavit
255 and an affidavit of Henry Eves and a memorandum of points and authorities.

Respectfully submitted,

/s/ VICTOR B. HARRIS
Victor B. Harris
411 North Seventh Street
St. Louis 1, Missouri

Seymour Krieger
KRIEGER & JORGENSEN
514 Wyatt Building
Washington 5, D. C.

Attorneys for plaintiff

August 13, 1956

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STATE OF MISSOURI }
CITY OF ST. LOUIS } ss.

AFFIDAVIT

AL FRIEDMAN, being duly sworn, states the following:

1. I am the plaintiff in this case and reaffirm the allegations of my amended complaint.

2. I held the following elective offices in Lodge 688 of District 9 of the International Association of Machinists from 1942 to 1951:

a. District Lodge Delegate, 4 or 5 terms
b. District Executive Board Member, 2 or 3 terms
c. Secretary of District Executive Board, 1 term
d. President of Lodge 688, 2 terms
e. Chairman of Negotiatory Committee of Job Shops, 2 terms
f. Delegate to Central Trades & Labor Union, A.F. of L. 2 or 3 terms
g. Delegate to the 1948 Grand Lodge Convention
h. Delegate to numerous State conventions
i. Delegate to the National Tool & Die Conference, several times.

3. Article V, Section 5 of the Constitution of the International Association of Machinists was amended through the direction and efforts of Mr. A. J. Hayes, the International President. The amendment was proposed by Mr. Hayes after my action against the International Association of Machinists and its officers for reinstatement was filed in the United States District Court for the District of Columbia. The new section reads as follows:

• • • • •

"Charges preferred against members on other than a violation of their duty or duties as officers, shall be handled under the provisions of Art. XXIV of this Constitution; provided, however, that upon receipt of any of the charges preferred as aforesaid, the I.P., or the E.C. may, if they deem advisable, order a D.L., L.L., council or conference, officer or officers thereof, business representative(s) or member or members, to be tried by the convention of the G.L. which is hereby vested with original trial jurisdiction to hear and decide such charges in the manner prescribed in the paragraph next succeeding.

"Should the I.P. or E.C. order a member, D.L., L.L., council or conference, or officer thereof, or business representative, to be tried by the G.L. convention, they shall notify the accused and those preferring the charges in writing by registered mail, of the charges upon which the accused will be tried and the time
257 and place of trial which shall be held not less than

30 days after the mailing of such notice by the I.P. or E.C.

"The trial shall be referred to and conducted by the appeals and grievance committee of the convention which shall submit to the convention its report, which shall include its findings and verdict, together with its recommendation of the penalty to be imposed if the verdict be that of guilty.

"The convention may amend or reject the verdict or findings of the said committee, and find the accused either 'guilty' or 'not guilty'. If the convention concurs with a 'guilty' verdict of the appeals and grievance committee, the recommendation of said committee as to the penalty to be imposed may be amended or rejected and another penalty substituted therefor by a majority vote of those delegates voting on the question. Such action of the convention shall be recognized and accepted as final and binding on the parties. In the conduct of trials before the appeals and grievance committee of the convention, all parties shall be given the opportunity to present evidence and exhibits, to examine and cross-examine witnesses, and the accused may be represented by counsel as provided in Sec. 3, Art. K."

4. At my appearance before the Appeals and Grievance Committee of the Grand Lodge Convention, I was given only a prefunctory hearing and was not permitted to be present when the matter was discussed by others or to hear the statements of other persons to the Committee.

5. I had no notice of the appeal by Mr. Lloyd Weber until the meeting of the local Lodge April 25, 1952. I did not receive a copy of Mr. Weber's letter of April 10, 1952 to Mr. Hayes, and did not know of its existence until defendants' motion for summary judgment was filed on or about May 18, 1956, more than four years after it was sent.

/s/ Al Friedman
Al Friedman

Subscribed and sworn to before me this 8th day of August, 1956.

/s/ Hester H. Sherwood
Notary Public

My Commission expires: Jan. 14, 1957.

258 AFFIDAVIT

I, Henry Eves, St. Louis, Missouri, state that I was present in the room at Kansas City, Missouri, where the Appeals and Grievance Committee of the Grand Lodge Convention of the International Association of Machinists heard the appeal of Al Friedman. After Mr. Friedman made his oral presentation, he was directed to leave the room. Then, and while Mr. Friedman was not in the room, the Committee listened to Fred Speckman talk about the case.

sgd Henry Eves
Henry Eves

STATE OF MISSOURI }
CITY OF ST. LOUIS } ss.

Subscribed and sworn to before me, a Notary Public this 7th day of August, 1956.

sgd Joseph P. Kozak
Notary Public

Seal

My Commission expires May 17, 1959

259 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52
Filed Jan. 7, 1957

AL FRIEDMAN, *Plaintiff*,

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, A. J. HAYES, Individually and as International President of the International Association of Machinists and Member of its Executive Council, ERIC PETERSON, Individually and as General Secretary-Treasurer of the International Association of Machinists and Member of its Executive Council, and ELMER E. WALKER, Individually and as General Vice-President of the Executive Council of the International Association of Machinists and Member of its Executive Council, *Defendants*.

Memorandum

MORRIS, J. Plaintiff brings this suit seeking injunctive relief from his expulsion as a member of the Tool and Diemakers Lodge No. 688 of defendant International Association of Machinists. On March 14, 1952, charges were filed against plaintiff by the business agent for his district of the Association, pursuant to Section 1, Article K, of the Constitution of the Association, charging plaintiff "with advocating, encouraging and supporting Communism, and also with being a member of the Communist Party." In accordance with the Constitution of the Association, a trial committee was appointed by the president of plaintiff's lodge, before whom trial was had on March 24, 1952. The trial committee, on March 28, 1952, submitted its report to the membership at a regular meeting of the lodge as follows:

> We, the members of the trial committee of the case of Lloyd Weber versus Al Friedman have after long

and serious deliberation and much discussion of the evidence presented find the defendant not guilty as charged due to lack of sufficient and positive evidence.

The members of the lodge at such meeting voted 95 to 26 to sustain the "not guilty" verdict. The complaint took an appeal from this action to the President of the International Association, who set aside the decision of the Lodge, found the plaintiff guilty, and expelled him
260 from membership in the Association. Appeal from the action of the International President was taken by the plaintiff to the Executive Council of the Association and from its affirmance to the Grand Lodge Convention, which also affirmed the finding of guilty and plaintiff's expulsion.

It is the plaintiff's contention that no right of appeal from a verdict of "not guilty" is permitted under the Constitution of the Association; that, if thereby permitted, such procedure violates "fundamental principles of democratic procedure," and that the appellate proceedings were illegal because he was not permitted to be present, or have proper representation, at such proceedings.

Courts have generally upheld appeals from "not guilty" verdicts of members of voluntary associations when the constitution of the association explicity provides therefor, *Simpson* v. *Grand International Brotherhood of Locomotive Engineers*, 83 W. Va. 355, 98 S. E. 5960, cert. den. 250 U.S. 644, *Callahan* v. *Order of Ry. Conductors*, 169 Wis. 43, 171 N.W. 653, *Reubens* v. *Weber*, 237 App. Div. 15, 260 N.Y.S. 701, *Pfoh* v. *Whitney*, 62 N.E.(24) 744. It is said that the members consent to, and are bound by, regulations and laws of the association when they become one of its members, and that, if such regulations are reasonable, courts, in reviewing proceedings to discipline a member, will inquire only to see whether such proceedings have been in accordance with the constitution and by-laws of the association, whether the charges are substantial,

whether the member has had fair notice and opportunity to be heard, and whether malice has been employed in arriving at the decision.

Section 9, Article K, of the Constitution of this Association provides:

> Appeals may be taken from the decision of any local lodge or Grand Lodge Officer to the International President, * * *. Thereafter appeals may be prosecuted in accordance with provisions of Section 6,[1] Article XXV of the Grand Lodge Constitution.

261 The plaintiff contends that, because no words explicitly granting to the complainant a right of appeal, no such appeal is allowable. I do not agree with this contention. The words employed are inclusive rather than exclusive, and without the latter it cannot be assumed that the Association intended to leave the discipline of its members entirely in the hands of the members of the local lodge to which a member might belong. This is particularly so when the ultimate decision is lodged in the Grand Lodge in convention, or in the membership at large through referendum. However, where an appeal is taken from a determination that the accused is not guilty, before a judgment may be reached that he is guilty, it is manifestly clear that full opportunity must be given at every stage in such appellate procedure for the accused to be heard and to reply to matters, both of law and fact, urged against him. The practice employed here is unlike the conventional appellate proceedings where the deter-

[1] Sec. 6. Appeals may be taken from the decision of the International President to the Executive Council. Appeals may be taken from the decision of the Executive Council to a convention of the Grand Lodge, or to the membership at large by submission thereof through the referendum. All appeals shall be laid before the body to whom addressed through the General Secretary-Treasurer. Before any appeals can be taken from any decision of the Executive Council, the decision, and all orders of the Executive Council in relation thereto, must be fully complied with by all parties concerned therein in order to entitle them to enter an appeal, and in no case shall any district or local lodge, or any individual member or members thereof, appeal to the civil courts for redress until after having exhausted all rights of appeal under the provisions of this Constitution. No member of the Executive Council shall have a vote on any appeal on which he has already rendered a decision.

mination of the appellate tribunal normally affirms the judgment or reverses for error and remands the case for a new trial where the defendant has full opportunity to present his defense.

There was evidence at the trial which could be the basis for a determination, after proper appellate procedure, that the plaintiff actively engaged in Communist activities, had been isued a card in the Communist Party, and had recruited members of the Communist Party from members of his local lodge. The plaintiff contends now, as was his principal contention at the trial, that there was no such evidence with respect to any action subsequent to the adoption on April 1, 1949, of Section 2, Article XXV, of the Constitution, under which plaintiff was charged. It was clearly a matter for proper appellate consideration as to whether or not the plaintiff is chargeable with knowledge of decisions of the Association prior to his membership therein holding Communist activity to be violative of its laws covering "dual unionism" and "improper conduct," and of motion[2] adopted by the Executive Council, circularized in Official Circular No. 183, under date
262 of August 15, 1925, and of motion[3] adopted by the Executive Council on January 13, 1947, circularized

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[2] That the Trade Union Educational League, the Workers or Communist Party, the Young Peoples' League, or Young Workers' League are antagonistic in character and dual in nature to the International Association of Machinists.

That all members of the International Association of Machinists who are also members of any of the said dual organizations be given a 60 day notice within which they shall sever all connections with the said dual organizations, or relinquish their membership in the International Association of Machinists.

[3] That any individual who advocates or encourages Communism, Fascism, Nazism, or any other totalitarian philosophy, or who, by other actions, gives support to these "philosophies" or "isms" is not eligible to membership in the I.A. of M.

That any member of the International Association of Machinists who advocates or encourages Communism, Fascism, Nazism, or any other totalitarian philosophy, or who, by other actions, gives support to these "philosophies" or "isms" is subject to the charge of "improper conduct" and trial under "Article K—Code"—and if guilty shall be expelled.

in Official Circular No. 474, under date of February 6, 1947.[4]

The following allegation of the complaint gives rise to much concern:

> The procedure at the said Grand Lodge Convention was controlled completely by defendants. Plaintiff's request to appear before said Convention was refused; and said Convention was misinformed by the defendants and their agents as to the facts involved and as to plaintiff's position thereon.

In his memorandum of points and authorities in support of his motion for summary judgment, plaintiff seems to have converted this charge into two other charges, namely, that the appeal to the International President was taken without notice to him and without giving him an opportunity to be heard, and that the Appeals and Grievance Committee of the Convention, appointed by the International President, and completely controlled by him and the other defendants, merely listened to plaintiff in silence, asked him if he had anything more to say and directed his removal from the hearing room, and thereafter heard one of the witnesses who had testified against plaintiff before the trial committee and a member of the Executive Council.

Exhibits attached to defendants' motion for summary judgment show that the complainant at the original trial wrote the International President a letter, in which he filed an appeal and summarized evidence at the trial of plaintiff's guilt, and enclosed copy of the verbatim transcript of the trial. The international President then addressed a letter jointly to the president and the recording

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[4] Article I, Section 4, and Article IV, Section 2, of the Constitution, provide that between conventions all executive and judicial power of the Association is vested in the Executive Council, and that sessions thereof "shall have the same authority to initiate legislation as has a delegate convention." The section under which plaintiff was charged, therefore, served to make activity which "advocates or encourages Communism, Fascism, Nazism, or any other totalitarian philosophy, or * * * gives support to these 'philosophies' or 'isms'" a separate offense.

263 secretary of the local lodge, advising that an appeal had been taken, and directing that he be furnished with certain papers respecting the trial. In his letter transmitting the requested papers, the recording secretary stated:

> Your letter will be read at the next meeting of the Lodge so that the membership present will know that an appeal has been made to the International President, in regard to the decision of Lodge No. 688, in the subject case of Weber vs. Friedman.

Seven days after the date of the recording secretary's letter, plaintiff wrote the International President as follows:

> I am writing concerning the appeal by Plaintiff Lloyd Weber, in the case of Weber vs. Al Friedman (H93065) which was voted on by Lodge 688, District No. 9, at its regular meeting of March 28, 1952.
>
> Your communication announcing the appeal and requesting the official results was read to Lodge 688 on April 25 at its regular meeting.
>
> Nowhere does our Constitution give the right to appeal to a plaintiff in a trial. Certainly Article K, Section 9, under which Weber seeks to appeal is clearly and unequivocally reserved to a defendant who may have been found guilty by his local Lodge.
>
> I do not believe it necessary to detail the lack of merit in the original charges and to cite the abundant supporting evidence in our Constitution which clearly reserves the right of appeal to the defendant in a trial case. I request that you deny the plaintiff Weber's appeal forthwith, on the basis that it clearly violates the acquitted defendant's Constitutional rights.

In a lengthy letter of May 5, 1952, to the president and recording secretary of the local lodge, the International President made findings "based upon the record" in the case and conclusions, setting forth considerable of the

evidence of guilt and the established law and policy of the Association, and decided:

> Careful examination of all the testimony presented at the trial reveals that certain activities of the Defendant have been directed toward the advancement of Communist philosophy in the United States. * * *
>
> I an therefore setting aside the decision of the Lodge in this matter and, based upon the record in the case, I find the Defendant guilty and hereby expel him from membership in our Association. The expulsion of Defendant * * * shall be effective as of this date. * * *

There is no question that the plaintiff had actual knowledge that an appeal had been taken to the International President, or that he submitted certain matters contesting the appeal, but it is equally clear that he was not given an opportunity to hear and be heard with respect to the matters which induced the International President to reverse the action of the lodge finding him not guilty.

264 Both plaintiff and his counsel requested permission to be present when his appeal was taken up by the Executive Counsel, and in a letter from defendant Peterson, General Secretary-Treasurer, plaintiff was advised:

> Your inquiry as to whether or not it is permissible for you to appear before the Executive Council in person, can be answered by pointing out that this is a matter on which the Executive Council, itself, has to rule. It may be helpful to point out that very seldom does the Executive Council grant that type of request, inasmuch as it is considered that a member appealing a decision from the International President has ample opportunity of presenting in written form, all of his reasons why the decision should be set aside.

and plaintiff's counsel was advised by the same person:

> As I have previously informed Brother Al Friedman—as a matter of policy—the Executive Council of the International Association of Machinists, A.F.L.

does not hear oral argument concerning the merits of an appeal to them from a decision of the International President.

Later plaintiff was advised in a letter from defendant Peterson:

> In reply to your letter of May 19, addressed to the Executive Council, wherein you request an opportunity to appear before the Council in person, together with counsel of your choice, in order to argue your appeal from the decision of the International President in the case of Weber vs. Friedman, Lodge No. 688, dated May 5, 1952, you are now advised that your request was placed before the Council and after due consideration they voted not to grant your request.

Plaintiff's counsel did file a somewhat lengthy brief, in which the stages of the trial were set forth, and argument made respecting the legal positions urged by plaintiff and the lack of evidence to support the findings of the International President. Here again, it being evident that the hearing before the Executive Council was in effect a continuation of the trial itself, it required that the plaintiff be given an opportunity to hear and to be heard on the matters being considered.

Excerpts from the proceedings of the Grand Lodge Convention are filed as an exhibit to defendants' motion for summary judgment, and contain the report of the Appeals and Grievance Committee:

> The files contained a request by the appellant to appear before your Committee in his own behalf. * * *
>
> * * * * * * * * * *
>
> The appellant did appear before your Committee. At his appearance the accused Friedman relied almost entirely on the point that the plaintiff had no right
265 to appeal the acquittal by the Local Lodge. We find no merit in this contention in view of the provisions of Article K, Section 9, of the Constitution which provide for appeal from the decision of any local lodge.

The Section does not limit appeal only from verdicts of guilty. Also appeared before this Committee Brothers Fred Spechman, William King, Henry Eves and John Graff of Lodge No. 688 and Brother Russell Davis, District No. 9 Brother Russell Johnson, Lodge No. 1402, and Brother James Richardson, Lodge No. 1947, as well as General Vice Presedent P. L. Siemiller in behalf of the Executive Council.

Conclusion

A review of all the evidence before us: the transcript; the Decision of May 5, 1952 of the International President; and the subsequent action of the Executive Council, compels the conclusion that there is ample and sufficient evidence on the record as a whole to support the finding of a violation of Article XXV, Section 2, and warrant the verdict of Guilty and penalty of expulsion. We find and conclude that Al Friedman, at all times material herein, was a member of the Communist Party; that he advocated Communism; that he encouraged Communism; and that he gave support to Communism. As a result we conclude he merits the penalty of expulsion, and we recommend that the delegates in Convention assembled so find and conclude. To the extent, however, that the findings and conclusions of both the International President and the Executive Council may be inconsistent or in conflict with our findings, conclusions and recommendations, they are so modified.

The conclusion reached is that the plaintiff has not been accorded the procedures on appellate review which are the minimal requirements of fairness necessary to the reversal without further trial of a determination of not guilty, particularly where, as here, the livelihood of the accused is so directly involved with his right to membership in the union. In this view, injunctive relief will be granted to the plaintiff against his expulsion, unless and until he has been accorded the benefit of appellate proceedings in which at each stage he is given full opportunity

to hear and to be heard, both as to law and the facts upon which it is sought to make a finding of guilty. The order of this Court shall be without prejudice to the defendants to prosecute such appellate proceedings, and to take appropriate action pursuant thereto.

Counsel will prepare an appropriate order to carry this decision into effect.

/s/ Jas. W. Morris
Judge

January 7, 1957.

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266 Filed Feb. 7, 1957

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

Al Friedman, *Plaintiff*,

v.

International Association of Machinists, et al,
Defendants.

Judgment and Decree

This cause came on to be heard upon motion of defendants for summary judgment and plaintiff's counter-motion for summary judgment, and the Court has heard argument by counsel for both sides thereon. It appearing that the material facts as set forth in the complaint and the affidavits attached to the motions are undisputed, and the Court, upon consideration of these matters and argument of counsel, having entered its memorandum opinion dated January 7, 1957, on the issues of law involved, concludes (1) that the defendant Association has the authority under

its Constitution and applicable law to conduct appellate proceedings reviewing the action of its local Lodge No. 688 in acquitting plaintiff of charges of communism against him and upon such review to find plaintiff guilty and expel him from membership in the Association; (2) that minimal requirements of fairness under the circumstances of this case require that such appellate proceedings accord the plaintiff full opportunity to hear and to be heard both as to law and the facts upon which it is sought to make a finding of guilty; (3) that the appellate proceedings heretofore conducted by the Association did not give the plaintiff such full opportunity to hear and be heard with respect to the matters which induced the International President, the Executive Council, and the Convention of the Association to reverse the action of the local
267 lodge; and (4) that the plaintiff is entitled to injunctive relief against his expulsion from membership in the said Association unless and until he has been accorded the benefit of such proper appellate proceedings;

WHEREFORE, IT IS ADJUDGED AND DECREED:

1. That the preliminary injunction heretofore issued herein on October 23, 1952, which was dissolved on March 2, 1954, and reinstated on November 3, 1955, is continued in full force and effect, and the International Association of Machinists, A. J. Hayes, Eric Peterson, and Elmer E. Walker, and their agents, servants, officers, members, and employees of every kind be and they are hereby restrained and enjoined from taking any step to carry out the order expelling plaintiff from membership in said Association, which is the subject of the complaint herein, unless and until plaintiff has been accorded the benefit of appellate proceedings within the Association in which, at each stage thereof, he is given full opportunity to hear and be heard both as to law and the facts upon which it is sought

to make a finding of guilty as the basis for expulsion from membership in the Association.

2. That this order is without prejudice to the defendants to prosecute further appellate proceedings with respect to plaintiff in accordance with the conclusions of the Court set forth in its memorandum opinion of January 7, 1957, and in its judgment, and to take appropriate action pursuant thereto.

3. That this Court retains jurisdiction to entertain any motion by either party with respect to any proceedings conducted by the Association subsequent hereto.

4. The costs are decreed against defendants.

/s/ JAMES W. MORRIS
James W. Morris
United States District Judge

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268 Filed March 8, 1957

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

AL FRIEDMAN, *Plaintiff*,

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL.,
Defendants.

Notice of Appeal

Notice is hereby given that the International Association of Machinists, A. J. Hayes, Eric Peterson, and Elmer Walker, defendants in the above entitled cause, hereby appeal to the United States Court of Appeals for the District of Columbia Circuit that part of the final judg-

ment and decree entered in said cause on February 7, 1957, contained in finding paragraphs (3) and (4) thereof which declares that the appellate proceedings heretofore conducted by the defendant International Association of Machinists did not give the plaintiff full opportunity to hear and be heard with respect to the matters which induced the International President, the Executive Council, and the Convention of said Association to reverse the action of plaintiff's local lodge in acquitting him of charges of advocating, encouraging, and supporting Communism, and with being a member of the Communist Party, and that plaintiff is entitled to injunctive relief against his expulsion from membership in the said Association unless and until plaintiff has been accorded the benefit of such proper appellate proceedings within the defendant Association, and also that part of said final judgment and decree contained in ordering paragraphs 1 and 4 thereof which read as follows :

"1. That the preliminary injunction heretofore issued herein on October 23, 1952, which was dissolved on March 2, 1954, and reinstated on November 3, 1955, is continued in full force and effect, and the Inter-
269 national Association of Machinists, A. J. Hayes, Eric Peterson, and Elmer E. Walker, and their agents, servants, officers, members, and employees of every kind be and they are hereby restrained and enjoined from taking any step to carry out the order expelling from membership in said Association, which is the subject of the complaint herein, unless and until plaintiff has been accorded the benefit of appellate proceedings within the Association in which, at each stage thereof, he is given full opportunity to hear and be heard both as to law and the facts upon which it is sought to make a finding of guilty as the basis for expulsion from membership in the Association.

• • • •

"4. The costs are decreed against defendants."

/s/ Edward J. Hickey, Jr.
Edward J. Hickey, Jr.

/s/ James L. Highsaw, Jr.
James L. Highsaw, Jr.
620 Tower Building
Washington 5, D. C.

Attorneys for Defendants

Of Counsel:

Mulholland, Robie & Hickey
620 Tower Building
Washington 5, D. C.

March 8, 1957.

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271 Filed March 12, 1957

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

Al Friedman, *Plaintiff*,

v.

International Association of Machinists, et al,
Defendants.

Defendants' Designation of the Portions of the Record and Proceedings to be Contained in the Record on Appeal and Statement of Points

I.

Now come the International Association of Machinists, A. J. Hayes, Eric Peterson, and Elmer E. Walker, defendants in the above entitled cause, pursuant to Rule 75(a)

of the Federal Rules of Civil Procedure and designate the following portions of the record and proceedings in such cause to be contained in the record on their appeal to the United States Court of Appeals for the District of Columbia Circuit from a part of the final judgment and decree entered in said cause on February 7, 1957:

1. The docket entries.

2. The complaint filed on October 7, 1952.

3. Preliminary injunction issued by United States District Judge Luther W. Youngdahl, filed on October 23, 1952.

4. Defendants' Motion to Dismiss, filed October 31, 1952.

5. Memorandum to Clerk by United States District Judge Matthew F. McGuire, filed January 21, 1953.

6. Order of United States District Judge Matthew
272 P. McGuire, Dated February 16, 1953.

7. Memorandum to the Clerk by United States District Judge Matthew F. McGuire, filed April 24, 1953.

8. Amended Complaint filed April 24, 1953.

9. Plaintiff's election to proceed under the general jurisdiction of the District Court, filed on June 2, 1953.

10. Order of United States District Judge Edward M. Curran, filed March 2, 1954, dismissing action and vacating temporary injunction, filed March 2, 1954.

11. Notice of appeal, filed by plaintiff on March 29, 1954, from order of United States District Judge Curran.

12. Mandate of United States Court of Appeals for the District of Columbia Circuit to United States District Court, filed October 28, 1955.

13. Order of United States District Judge Edward M. Curran reinstating preliminary injunction filed November 3, 1955.

14. Answer of defendants to amended complaint filed on November 23, 1955.

15. Motion of defendants for summary judgment filed on May 18, 1956, and affidavit of Eric Peterson and exhibits attached thereto, identified as follows:

(a) Exhibit A—Excerpts from Constitution of the Grand Lodge, District and Local Lodges, Councils and Conferences of the International Association of Machinists.

(b) Exhibit B—Documents relating to trial of Al Friedman by Tool and Diemakers Lodge 688 of the International Association of Machinists, consisting of exhibits B-1, B-2, B-3, and B-4.

(c) Exhibit C—Documents relating to appeal of Lloyd Weber to President of International Association
273 of Machinists from decision of Local Lodge on charges against Al Friedman, consisting of exhibits C-1, C-2, C-3, C-4, C-5, C-6, and C-7.

(d) Exhibit D—Documents relating to appeal of Al Friedman to Executive Council of International Association of Machinists from decision of President expelling Al Friedman from membership in the Association, consisting of exhibits D-1, D-2, D-3, D-4, D-5, D-6, D-7, D-8, D-9, D-10, D-11, D-12, D-13, D-14, D-15, D-16, D-17, and D-18.

(e) Exhibit E—Documents relating to appeal of Al Friedman to Convention of International Association of Machinists from decision of Executive Council of Association affirming action of President of Association in expelling Al Friedman from membership in the Association, consisting of exhibits E-1, E-2, E-3, E-4, E-5, E-6, and E-7.

16. Plaintiff's cross motion for summary judgment filed on August 13, 1956, and the affidavits of Mr. Al Friedman and Mr. Henry Eves attached thereto.

17. Memorandum opinion of United States District Judge James W. Morris filed on January 8, 1957.

18. Final judgment and decree filed on February 7, 1957.

19. Notice of appeal by defendants from a part of the final decree and judgment filed on March 8, 1957.

20. Defendants designation of the portions of the record and proceedings to be contained in the record on appeal and statement of points filed on March 12, 1957.

II.

Pursuant to Rule 75(d) of the Federal Rules of Civil Procedure, the defendants state that on this appeal they will rely on the points that the District Court erred
274 (1) in concluding as a matter of law on the record before the Court that the appellate proceedings conducted by the defendant International Association of Machinists did not give the plaintiff full opportunity to hear and be heard to the extent to which plaintiff was legally entitled with respect to the matters which induced the International President, the Executive Council, and the Convention of said Association to reverse the action of Local Lodge 688 of said organization and find the plaintiff guilty of advocating, encouraging, and supporting Communism, and with being a member of the Communist Party and to order him expelled from membership in the Association, and (2) in enjoining the defendant Association and its officers from expelling plaintiff from membership, unless and until he is given full opportunity to hear and be heard with respect to such matters in the manner and to the extent contemplated by the Court's opinion of

January 8, 1957, in appellate proceedings before the Association.

Respectfully submitted,

/s/ James L. Highsaw, Jr.
James L. Highsaw, Jr.
Edward J. Hickey, Jr.
620 Tower Building
Washington 5, D. C.
Attorneys for Defendants.

Dated: March 12, 1957.

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276 Filed March 22, 1957

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 4528-52

Al Friedman, *Plaintiff*,

v.

International Association of Machinists, et al, *Defendants.*

Plaintiff's Designation of the Record

In addition to the designation filed herein by the defendants, plaintiff hereby designates the following to be included in the record on defendants' appeal to the United States Court of Appeals for the District Court of Columbia from the judgment entered herein on the 7th day of February, 1957:

1. The deposition of Al Friedman now on file in this Court and taken on the 21st day of January, 1954.

/s/ Victor B. Harris
Victor B. Harris
411 No. 7th Street
St. Louis 1, Mo.

/s/ Seymour Krieger
Seymour Krieger
777 14th Street, N. W.
Washington 5, D. C.
Attorneys for Plaintiff

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282 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

United States of America }
District of Columbia } ss:

I, Harry M. Hull, Clerk of the United States District Court for the District of Columbia, do hereby certify the foregoing pages numbered 1 to 281, inclusive, to be a true and correct transcript of the record according to the designations filed by counsel in the case of Al Friedman, Plaintiff, vs. International Association of Machinists, Etc., et al., Defendants, Civil Action No. 4528-52, as the same remains upon file and of record in said Court.

In Testimony Whereof, I hereunto subscribe my name and affix the seal of said Court, at the City of Washington, in said District, this 3rd day of April, 1957.

/s/ Harry M. Hull
Clerk.

(Seal)

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IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1957.

AL FRIEDMAN,
Petitioner,

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS et al.,
Respondents.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals for the District of Columbia Circuit.

VICTOR B. HARRIS,
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No. .....

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1957.

AL FRIEDMAN,
Petitioner,

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS et al.,
Respondents.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals for the District of Columbia Circuit.

Petitioner prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the District of Columbia Circuit entered in the above entitled case on February 20, 1958.

OPINIONS BELOW.

The opinion of the District Court (R. 240-251) printed in Appendix A, infra, p. 33, is reported in 147 F. Supp. 1. The opinion of the Court of Appeals (R. 259) is unreported and is printed in Appendix A, infra, p. 23.

JURISDICTION.

The judgment of the Court of Appeals for the District of Columbia Circuit was entered February 20, 1958, infra, p. 268. Rehearing was denied on April 15, 1958. The jurisdiction of this Court is invoked under 28 U. S. C., Sec. 1254 (1).

QUESTIONS PRESENTED.

The Court of Appeals held that the appellate procedure within respondent Union (International Association of Machinists) authorized the expulsion of petitioner for **dual unionism**—even though the only charges against petitioner were for **Communist activity**—after petitioner had been twice acquitted of the Communist charges by his peers, first by the Trial Committee which alone heard the testimony, and then by petitioner's local Lodge. The question of dual unionism had never been mentioned at the trial or in the testimony. The expulsion will cause petitioner, a highly skilled machinist, to lose his present employment and deprive him of the right to work at his trade anywhere in the United States. The questions presented are:

1. May an appeal be taken by the accuser from a not guilty verdict where the Union Constitution does not expressly authorize such an appeal, and reserves to the membership all power not specifically delegated to the officers?

2. May the President of the Union reverse the not guilty verdict on the basis of "an independent analysis" of a transcript of oral testimony which he did not hear, accept such testimony as true, after the Trial Committee which alone heard it found that there was a "lack of sufficient and positive evidence," and expel petitioner?

3. May the President in making his independent analysis of the written transcript consider an ex parte brief from petitioner's accuser who had taken the appeal?

4. Section 2 of Art. XXV of the Union Constitution makes dual unionism and Communism separate and distinct punishable offenses. Section 3 of that Article contains no reference to Communism and makes dual unionism the only offense for which the President or the Executive Committee may expel a member. The sole charge against petitioner was for Communist activity in violation of Section 2. No charge of dual unionism was made. In this situation, may the President on the basis of his independent analysis of the testimony, raise the issue of dualism for the first time, find petitioner guilty of participation in a "dual organization" under Section 3, and use the special authority conferred on him in Section 3—there being no such special authority in Section 2—to expel petitioner?

5. May the Executive Council of the Union affirm the President's decision at a meeting presided over by the President, to which petitioner was denied admittance, although permitted to file a written brief?

6. May the Grand Lodge Convention of respondent Union, which was completely controlled by respondents, limit petitioner's appearance at the Convention to an Appeals and Grievance Committee appointed by the President, which Committee after hearing petitioner, ordered him from the hearing room, and then heard at least one of the principal witnesses who had testified against petitioner before the Trial Committee?

7. In affirming petitioner's expulsion, may the Convention go back to the original charges against petitioner of Communism under Section 2 of Art. XXV and find petitioner guilty of such charges, and ignore the expulsion for dualism under Section 3 of Art. XXV as ordered by the President and the Executive Council?

8. May petitioner be expelled where Article K of the Union Constitution under which petitioner was tried pro-

vides that expulsion shall be only by a two-thirds vote of the local Lodge, and no such vote was taken, the local Lodge having acquitted petitioner?

STATUTES INVOLVED.

There are no Federal or State statutes or regulations involved in the issues in this appeal.

STATEMENT.

This action was brought by petitioner in the District Court of the District of Columbia as a local court, pursuant to Title II, Sec. 306 of the District of Columbia Code (1951 Ed.). The controversy arose when written charges were filed against petitioner in Lodge 688, of respondent union, St. Louis, Missouri, by Lloyd Weber, head of the Union in the St. Louis area, accusing appellee of violating Article XXV, Section 2, of the Union Constitution (R. 17-18) by "defending, encouraging and supporting Communism and also with being a member of the Communist Party" (R. 34, 90, 66).[1]

The disciplinary procedure provided in the Union constitution is set out in Article XXV (R. 17-20) and Article K (R. 22-27). So far as pertinent here, the procedure is as follows:

1. Charges are brought in the local Lodge (Article XXV, Section 4) with the trial under the provisions of Article

[1] Sec. 2, Art. XXV, is as follows:

Any member or members of any local lodge who attempt to inaugurate or encourage secession from the Grand Lodge or any local lodge, or who advocate, encourage, or attempt to inaugurate any dual labor movement, or who violate the provisions of the Constitution of the Grand Lodge, or the Constitution for Local Lodges, or any member who advocates or encourages Communism, Fascism, Nazism, or any other totalitarian philosophy, or who, by other actions gives support to these "philosophies" or "isms," shall, upon conviction thereof, be deemed guilty of conduct unbecoming a member and subject to fine or expulsion or both.

K (R. 22). The only exception is if the local Lodge fails to proceed on such charges, trial is before the Executive Council (Article XXV, Section 5). The exception did not occur in the instant case.

2. A Trial Committee is appointed in the local Lodge by the President thereof, and this Committee hears the evidence (Article K, Section 2).

3. The Trial Committee reports its finding and recommendations at the next meeting of the local Lodge (Article K, Section 6).

4. The recommendations are then voted on by the local Lodge, which is empowered to amend or reject the Trial Committee's Verdict, except that a two-thirds (⅔) vote is required for expulsion (R. 26).

5. "Appeals may be taken from the decision of any local lodge * * * to the International President." * * * and thereafter "may be prosecuted in accordance with the provisions of Section 6, Article XXV" (R. 26).

6. Section 6 provides for an appeal from a decision of the International President to the Executive Council, and then to a convention of the Grand Lodge or to the membership by referendum. "All appeals shall be laid before the body to whom addressed through the General Secretary-Treasurer" (R. 20).

7. The Constitution is silent as to the powers and authority in such appeals of the International President, the Executive Council or the Grand Lodge Convention, except that Section 3 of Article XXV gives the International President and the Executive Council the authority to expel any member "guilty of joining, or participating in any dual organization" (R. 18).

8. Article XXVIII provides: "All authority and power not specifically delegated to the officers in this Constitution is reserved to the membership" (R. 20).

After both parties had presented their evidence, the Trial Committee reported to the local Lodge in writing, as required by the constitution, that they found petitioner "not guilty as charged due to lack of sufficient and positive evidence" (R. 240-241). Thereafter, again in accordance with the constitution, the report of the Trial Committee was submitted to the local Lodge, which by a vote of 95 to 26 also found appellee not guilty (R. 241).

Without notice to appellee, Lloyd Weber filed an appeal from the not guilty decision of the local Lodge to respondent International President A. J. Hayes, in Washington, D. C. (R. 238). The appeal discussed at length the evidence presented to the Trial Committee, including Mr. Weber's own testimony, and argued the case against appellee (R. 166).

Respondent Hayes found appellee guilty of violating Article XXV, Section 3 in that appellee had "supported a movement dual in purpose to the International Association of Machinists and in violation of the Grand Lodge constitution," and expelled appellee from membership (R. 187-188). Sec. 2, set out footnote[1], p. 4, supra, makes support of "any dual labor movement" an offense, but the charges against petitioner made no reference to dualism. Until the President's order was entered expelling petitioner for dualism, that term had not been used in the proceedings, not even in Weber's appeal letter. Section 3 of Article XXV gives the International President and the Executive Council authority to expel a member for dualism (R. 18); but no authority to expel for any other reason.[2] While Section 2 gives no authority to the International President to expel for any reason.

Weber's written argument to President Hayes and the latter's decision are similar in many respects. Weber

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[2] Sec. 3. The International President and Executive Council shall have authority to expel any member guilty of joining, or participating in any dual organization (R. 17-18).

stated that his "appeal is based on the fact that **the Trial Committee and the Lodge utterly ignored all the testimony and evidence which was presented against Bro. Friedman** (R. 167, the emphasis is Weber's); referred to the testimony of Thomas Younglove, Fred Speckman and Bro. Davis as providing appellee's Communist activity (R. 167-168); contended that there was no showing that appellee "had ever denied being a Communist or that he had ever denounced Communism" (R. 169); and stated in "conclusion that the Trial Committee failed to call any of this evidence and testimony to the attention of the local Lodge" (R. 169).

Hayes accepted as true the oral testimony of Younglove, Speckman and Davis (R. 176-183). He ruled that "Under any system of law a Trial Committee or court does not have the option of ignoring evidence" (R. 184); that it was "significant that he [Petitioner] produced no substantial evidence of his innocence of the charge" (R. 184); and that "the Trial Committee did not make a factual and adequate report to the Lodge as required by Article K, Section 6 of the Grand Lodge Constitution" * * * which "had the effect of minimizing the true facts and influencing the Lodge in a manner which would lead to the conclusion that no substantial evidence was submitted in support of the charges" (R. 185).

Mr. Hayes did not hear a single witness nor inform petitioner that Weber's appeal was in the form of a lengthy letter which argued the merits of his side of the case (R. 238, 166).

Petitioner advised the Executive Council of respondent Union that he wished to appeal and to appear before the Executive Council in person, having already been advised by respondent Secretary-Treasurer Peterson that his request to appear personally before the Executive Council should be addressed to the Council (R. 196, 197, 201). Peterson advised petitioner "that your right of appeal is

permissive in character" (R. 202), and that his request to appear before the Executive Council had been denied (R. 204).

Petitioner submitted his appeal in writing to the Executive Council (R. 211). The Union constitution provides that the International President is the Chairman of the Executive Council (Articles IV and V, R. 14, 15). There is nothing in the record to show that respondent Hayes disqualified himself in this instance. On July 22, 1952, respondent Peterson advised appellee that his appeal had been placed before the Executive Council "in due course" together with the International President's written decision of May 5, 1952, that the Council voted "to sustain the decision of the International President", and that petitioner's expulsion became "effective as of this date—July 22, 1952" (R. 221).

Petitioner thereupon brought suit in the District Court against respondents asking that the Court reinstate him in the Union. This action was dismissed by Judge McLaughlin on the ground that petitioner had not exhausted his remedies within the organization by asking the Grand Lodge Convention for relief (Civil Action No. 3367-52, District of Columbia).

Petitioner thereupon appealed to the Grand Lodge Convention. His appeal to that body was limited to an appearance before an Appeals and Grievance Committee appointed by respondent Hayes (R. 14). The procedure at the Convention was completely controlled by respondents (Amended Complaint, Paragraphs 12, 27, R. 36-37, 41). Petitioner was allowed merely to make a statement; was then ordered from the room, and the Committee heard one of the witnesses who had testified against petitioner before the Trial Committee, and whose testimony was relied on heavily by respondent Hayes in expelling appellee (R. 181-183; Eves' Affidavit, R. 239, 231).

The Appeals and Grievance Committee, without making any reference to Section 3 which the President found petitioner had violated, reported that "there is ample and sufficient evidence on the record as a whole to support the finding of a violation of Article XXV, Section 2, and warrant the verdict of Guilty and penalty of expulsion" (R. 232). The Committee report was adopted by the Convention (R. 232). Thereupon petitioner filed this action in the District Court (R. 6).

Petitioner belongs to a highly skilled trade almost completely organized and controlled by respondent Union. Expulsion would result in loss of petitioner's present valuable job and prevent him from obtaining employment in his trade (R. 37, 54-55).

The District Court (Hon. Luther W. Youngdahl, Judge) granted petitioner a preliminary injunction against expulsion (R. 27). The injunction was set aside by Judge Curran and the cause was dismissed for lack of jurisdiction (R. 67). The Court of Appeals reversed and remanded, 95 App. D. C. 128, 220 F. (2) 808. Judge Curran then reinstated the preliminary injunction (R. 71).

On cross motions for summary judgment, the District Court (Hon. James W. Morris, Judge) made the preliminary injunction permanent.

The Court found that appeals from "not guilty" verdicts by members of voluntary associations have generally been upheld "when the constitution of the association explicitly provides therefor" (R. 241); that the words used in Section 9, Article K of the Union constitution[3] were "inclusive rather than exclusive"; that it could not "be assumed that the Union intended to leave the discipline of its members entirely in the hands of the local Lodge"

[3] "Appeals may be taken from the decision of any local lodge * * * to the International President."

(R. 242); and that "where an appeal is taken from a determination that the accused is not guilty, before a judgment may be reached that he is guilty, it is manifestly clear that full opportunity must be given at every stage in such appellate procedure for the accused to be heard and to reply to matters, both of law and fact, urged against him" (R. 242).

The Court further found that the practice employed in the instant case "is unlike the conventional appellate proceedings where the determination of the appellate tribunal normally affirms the judgment or reverses for error" (R. 242-243). The Court said "there was evidence at the trial which could be the basis for a determination, after proper appellate procedure, that the plaintiff actively engaged in Communist activities" (R. 243). The Court noted that the complaint charged that the procedure at the Grand Lodge Convention "was controlled completely by defendants," and said that this allegation "gives rise to much concern" (R. 244). The Court also noted the lengthy letter of the complainant Weber to the International President and found that there was no question that petitioner had actual knowledge of the appeal; but that "it is equally clear that he was not given an opportunity to hear and be heard with respect to the matters which induced the International President to reverse the action of the Lodge finding him not guilty" (R. 246). The Court also noted that petitioner's request to be heard by the Executive Council had been denied, and that while petitioner had filed a somewhat lengthy brief before the Executive Council, that, "Here again it being evident that the hearing before the Executive Council was in effect a continuation of the trial itself, it required that the plaintiff be given an opportunity to hear and to be heard on the matters being considered" (R. 246-247).

The District Court concluded that petitioner "has not been accorded the procedures on appellate review which

are the minimal requirements of fairness necessary to the reversal without further trial of a determination of not guilty, particularly where, as here, the livelihood of the accused is so directly involved with his right to membership in the union" (R. 248). The Court continued the preliminary injunction and granted further injunctive relief, unless and until appellee "has been accorded the benefit of appellate procedures within the Association in which, at each stage thereof, he [appellee] is given full opportunity to hear and be heard both as to law and the facts upon which it is sought to make a finding of guilty" (R. 250).

The Court of Appeals reversed and directed that respondents' motion for summary judgment be sustained (R. 268, infra p. 32). The Court found no basis for holding that the evidence against petitioner was insufficient. The Court said it could not be assumed that the Association intended to leave discipline of its members entirely in the hands of the local lodge; and that a court should not upset the Union's management of its affairs unless its decision was "inconsistent with fundamental fairness." The Court found that the failure to provide petitioner with a copy of the lengthy appeal letter was not such a procedural defect as to invalidate the proceeding; that the International President could find that a charge of Communism under Section 2 of Article XXV of the Union Constitution constituted "dual organization" under Section 3 of Article XXV, which gave the President independent authority to expel; and that the President's independent analysis of the transcript authorized him to make his own decision on the merits, and use his own expulsion authority to expel petitioner. The Court said:

> "Thus, the President found appellee guilty of the charges, ruled that this constituted participation in a dual organization, and exercised the authority he possessed in such circumstances under Section 3. We

find no reason for a judicial repudiation of this procedure. It seems a fair and permissible means available to the Association for reaching the conclusion that appellee had encouraged and supported Communism, was a member of the Party, and, accordingly, could be expelled for dualism."

The Court further found that although Art. XXV, Sec. 2 (the provision petitioner was charged with violating) was not adopted until April 1, 1949, previous resolutions of the Executive Council making Communism and dual unionism expellable offenses, authorized the expulsion against petitioner for actions prior to April 1, 1949.

A petition for rehearing was overruled and petitioner seeks review in this Court of the above decision of the Court of Appeals.

REASONS FOR GRANTING WRIT.

1. The precedent established by the Court of Appeals involves the "reputation of men and their right to work", and affects all of America's fifteen million union members.[4] The Court approved a procedure by which petitioner was expelled from his Union and which petitioner contends violated elementary rules of fair play. Petitioner was acquitted by the Trial Committee, which alone heard the witnesses, and by his local Lodge. The appellate procedures, which petitioner contends were in violation of his rights included: 1) permitting an appeal from a not guilty verdict; 2) considering on appeal an ex parte brief from petitioner's accuser; 3) permitting respondents to pass upon the credibility of testimony they did not hear, and accept as true evidence that the Trial Committee, which alone heard it,

[4] Mr. Justice Douglas concurring in *Peters v. Hobby*, 349 U. S. 331, 75 S. Ct. 790, 800 (1955): "We deal here with the reputation of men and their right to work—things more precious than property itself."

found insufficient; 4) finding petitioner guilty of a different offense from that with which he was charged; 5) hearing evidence against petitioner ex parte; and 6) expelling petitioner without obtaining the two-thirds vote required of the local Lodge for an expulsion.

This Court has held that a decision of the Court of Appeals of the District of Columbia construing a statute which "is national in scope" and would constitute a "precedent of general application" presents an "important question" which may be reviewed on certiorari, *Del-Vecchio v. Bowers*, 296 U. S. 280, 285, 56 S. Ct. 190, 193 (1935). See also *Unemployment Compensation v. Aragon*, 329 U. S. 143, 67 S. Ct. 245 (1946), in which certiorari was granted where an Alaska statute similar to those in other states and territories was involved. As in those cases the precedent established here is not limited in its application to the District of Columbia. It affects all the members of respondent Union, approximately one million and mostly nonresidents of the District of Columbia, as well as the members of every other union.

Today trade unions, such as respondent, are vital units of our industrial life. The public interest is involved where a skilled workman, such as petitioner, may be deprived of his livelihood by internal union procedure (R. 37, 53-56). Unions have been the subject of much national legislation, designed both to protect trade unions as such, and to protect the public from excesses of union power. Labor Management Relations Act, 61 Stat. 140, as amended, 65 Stat. 601, 29 U. S. C. A. 158. This Court has held that trade unions are sharply differentiated "from nonprofit organizations generally." *Office Employees International Union v. N. L. R. B.*, 353 U. S. 313, 319, 77 S. Ct. 799, 803 (1957). So important have trade unions become in our national economy that Congress has pre-empted the field in labor relations affecting interstate commerce. *Garner*

v. Teamsters, 346 U. S. 485, 74 S. Ct. 161; *United Mine Workers v. Arkansas Oak Flooring Co.*, 351 U. S. 62, 76 S. Ct. 559 (1956). Prof. Walter Gellhorn, one of organized labor's outstanding friends, points out that:

> "Unions have become the economic government of vast numbers of American men and women. Many of the conditions of their lives—their wages, their job tenure, their hope for the future—are controlled by the decisions of those who speak for them through their labor organization." (40 L. R. R. 10, 1957).

See also 49 Mich. L. Rev. 805, "Union Powers and Workers Rights," by Prof. Clyde Summers:

> "The power of the union is not confined to bargaining for his [the member's] working hours, but may extend to his fireside and even to his grave" (l. c. 808).

The instant case is itself a good example of the national character of trade unions, and how the precedent established by the Court of Appeals reaches far beyond the boundaries of the District of Columbia. Although petitioner lives and works in St. Louis, Missouri, his forum to protect his rights was the District of Columbia, because that is the only place he could obtain service on respondents. Many other trade unions have their headquarters in the District of Columbia. In many instances that is the forum where disciplined or expelled union members from all over the nation must go for their day in court. Where possible, actions may also be brought in the state courts, which may and have reached contrary results. Perhaps these courts will conclude, for example, that a procedure which allows the credibility of testimony to be determined on appeal is contrary to elementary standards of justice. Certainly, the Court of Appeals has passed upon a question of great importance, the effect of which is nationwide and is not limited to the District of Columbia.

2. The precedent established here fails to recognize that trade unions are important parts of our national economy. The Court held that "the Association's management of its affairs" should not be upset "unless its decision is inconsistent with fundamental fairness" (Appendix, infra, page 27). The cases cited in support of this position, set out in footnote,[5] show that the Court was clinging to the old view of noninterference in trade union internal matters, developed when unions were considered little more than fraternal societies. The trend of modern decisions is to the contrary and recognizes that the consequences of a loss of union membership are often disastrous to the individual involved.

In the **American Bar Journal**, September, 1957, Vol. 43, No. 9, pages 805, 806, 807, the more recent cases are collected. The author, Matthew O. Tobringer, has well stated the position which trade unions occupy today:

> "The American labor union has undergone a revolution in the past thirty years. Its characteristics have, indeed, changed so radically that it has become a sociological creature quite distinct from what it formerly was; it has grown into an institution, a new kind of public utility of labor relations. * * *
>
> "'A union occupies a **quasi-public** position similar to that of a **public service business** and it has corresponding obligations. It may no longer claim the same freedom from legal restraint enjoyed by golf clubs or fraternal associations.' (Emphasis ours.) In this lan-

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[5] Green v. Obergfell, 73 App. D. C. 208, 307, 121 F. 2d 46, 55; Davis v. International Alliance, 60 Cal. App. 2d 713, 141 P. 2d 486; Becker v. Calnan, 313 Mass. 625, 48 N. E. 2d 668; Rubens v. Weber, 237 App. Div. 15, 260 N. Y. S. 701, 705 (1st Dep't); Margolis v. Burke, 53 N. Y. S. 2d 157, 161 (Sup. Ct.); Simpson v. Grand Int'l, 83 W. Va. 355, 98 S. E. 580, 587. These cases are all comparatively old. The Green case was decided in 1941, Davis in 1943, Becker in 1943, Rubens in 1932, Margolis in 1945, and Simpson in 1919.

guage the California Supreme Court condemned a union which coupled its closed shop contract with its insistence that Negroes join a second-class union. * * *

"The union's government, previously assumed to be supreme and autonomous, presented to the courts an administration which they were willing to weigh and oftentimes to censure. Typical of such cases was the judicial denial of the power of an international president of a laundry workers union to expel a woman worker who became involved in a fight with a fellow member because, according to the court, the constitution did not explicitly describe such an offense as punishable in this manner. In this fashion the courts passed on the kind of rules the union could make, the procedure it should follow in making them, the procedure permissible in disciplining members, and the measure of the punishment. Finally, the courts were, and are, properly intransigent in their demand that no member be suspended or expelled without notification of the charges of the alleged offense, an opportunity to be heard in self-defense, to cross-examine accusers and to refute evidence."

It is significant that none of the cases cited by Mr. Tobriner are referred to by the Court of Appeals here.

Due process is just as important to "the economic government" of working men and women as it is to their political government. As Professor Clyde Summers stated in 64 Harvard Law Review 1049, 1074 (1951):

"If unions are recognized as a form of industrial government, then the rights of a member within the union should be equivalent to the rights of a citizen within a democratic system * * *."

In an article by Professor Witmar entitled "Civil Liberties and the Trade Union," appearing in 50 Yale Law Journal 621 (1941), it is stated:

> "* * * it would be going too far to say that the Bill of Rights is exclusively a state concern, that it has no part to play in determining the legality or illegality of conduct on the part of individuals and associations. * * * We can hardly avoid giving consideration to the standards set up by the Bill of Rights."

See also Professor Sumner Slichter in "Challenge of Industrial Relations", page 100 (1947):

> "Democracy is needed in trade unions because there is room for great differences among members in the objectives of unions, in their policies, and in the ways in which they conduct their affairs."

Deeply ingrained in Anglo-American procedure is the principle that a verdict of guilty is appealable, while a verdict of acquittal is not. Overlooked by the Court of Appeals is *Peters v. Hobby*, 349 U. S. 331, 344-345, 75 Sup. Ct. 790, 797 (1955), which reversed a conviction obtained by an appellate process after an acquittal by the trial tribunal, even though the point was not raised by the accused. This Court said: "While loyalty proceedings may not involve the imposition of criminal sanctions, the limitation on the Board's review power to adverse determinations was in keeping with the deeply rooted principle of criminal law that a verdict of guilty is appealable while a verdict of acquittal is not. This safeguard was one of the few, and perhaps one of the most important, afforded an accused employee under the Order. The effect was to leave the initial determination of his loyalty to his co-workers in the department—to his peers, as it were—who knew most about his character and his actions and his duties."

The precedent established here upholds an appeal of a not guilty verdict. This closes the door to any real democracy in trade unions, and should be reviewed by this Court.

3. The Court of Appeals decision is contrary to a final decision of the California courts construing the identical Union Constitution involved here. In *Gonzales v. Ass'n of Machinists*, 142 Cal. App. (2) 207, 298 P. (2) 92 (1956), the court held that the International President, a respondent here, had no authority to change a penalty prescribed by the local Lodge; that a member tried under Article K of the Union constitution (as was petitioner, R. 34-35) could not be expelled except by a two-thirds vote of the local, and since the required two-thirds vote had not been reached, no penalty could be imposed; that all the International President could do was affirm or reject the action of the Lodge; that the determination of the new penalty is for the Lodge and not for him; and that the requirements of a fair trial must be observed, even though the rules of the union fail to provide therefor. This is flatly contrary to the instant case, which permits the International President to change the verdict to one of guilty and expel the petitioner without the two-thirds vote of the local.[6]

Thus, while petitioner lives and works in Missouri, final authority to pass upon the legality of his right to work rests in the Court of Appeals in the District of Columbia, sitting as a local court. Respondent Union has members in every state, with petitioner's trade "almost completely organized and controlled" (R. 37). Clearly, we submit, this case presents a problem of great national importance.

4. The instant case involves the imposition of District of Columbia local law upon a Missouri resident for alleged misconduct which took place in Missouri. In so doing the Court of Appeals accepted at least one principle of appel-

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[6] Certiorari granted in *Gonzales*, 352 U. S. 966, No. 31 of Oct. Term, 1957, now under submission to this Court on a point not involved here. The Union did not request review of the California Court's holding that the President could not change the penalty, if any, of the local lodge, nor expel the accused, etc.

late procedure—credibility of witnesses—contrary to Missouri law. Petitioner was charged in a formal hearing brought in his local Lodge in Missouri; and as already stated, the Trial Committee found "the defendant" not guilty "due to lack of sufficient and positive evidence" (R. 34-35). The local Lodge agreed with the Trial Committee; and plaintiff Weber, petitioner's accuser, then took an appeal to the International President in Washington, D. C. (R. 35, 166, 170). The President, on the basis of "the evidence found in the record," and without hearing a single witness, reversed the Trial Committee and the local Lodge and expelled petitioner (R. 185, 178). The President relied principally on the evidence of one Younglove, a professional informer, whose testimony the President found to be "forthright." How could he know that? He neither saw nor heard the witness.[7] The Court of Appeals found nothing unfair in such "independent analysis of the transcript" by the President.

In Missouri, however, permitting a reviewing tribunal to accept as true and "forthright" evidence not heard, and which the triers of the facts found insufficient, would be looked upon with disfavor, if not downright horror. A

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[7] The President seemed to be impressed with the fact that Younglove was, as he termed him, "an undercover man for the Federal Bureau of Investigation" (R. 178). Recent experiences have shown that the credibility of such informers may leave a great deal to be desired, *United States v. Subversive Activities Control Board*, 351 U. S. 115, 76 S. Ct. 663, 100 L. Ed. 1003; and *United States v. Flynn*, D. C., 130 F. Supp. 412. *In the instant case, anyone familiar with St. Louis would know that Younglove was decidedly an unreliable witness.* He testified, among other things, that petitioner was a member of the St. Louis Veterans' Committee; had organized "The Veterans of World War II" on a march to Jefferson City, demanding a bonus; that the St. Louis Veterans Committee had at one time "pitched a camp, a tent, on the grounds of the City Hall"; and that the march on Jefferson City really did take place in 1946 or 1947 (R. 137, 138). *This testimony is pure fantasy and anyone who lived in St. Louis would know that.* This testimony points up the merit of the rule, discussed herein, leaving credibility to the trial tribunal.

noted Missouri judge, Henry Lamm, well stated the reason for the rule placing the credibility of oral testimony in the hands of those who hear it in *Creamer v. Bivert*, 214 Mo. 473, 479-480, 113 S. W. 1118, 1120-1121 (1908):

> "* * * Truth does not always stalk boldly forth naked, but modest withal, in a printed abstract in a court of last resort. She oft hides in nooks and crannies visible only to the mind's eye of the judge who tries the case. To him appears the furtive glance, the blush of conscious shame, the hesitation, the sincere or the flippant or sneering tone, the heat, the calmness, the yawn, the sigh, the candor or the lack of it, the scant or full realization of the solemnity of an oath, the carriage and mien. The brazen witness in reciting a lesson, or the itching overeagerness of the swift witness as well as honest face of the truthful one, are alone seen by him. In short, one witness may give testimony that reads in print, here, as if falling from the lips of an angel of light, and yet not a soul who heard it, nisi, believed a word of it; and another witness may testify so that it reads brokenly and obscurely in print, and yet there was that about the witness that carried conviction of truth to every soul who heard him testify* * *"

Supporting authority for the *Creamer* decision is overwhelming. See *Combs v. Combs*, 284 S. W. 2d 423, 426 (Mo. Sup. 1955): "The jury may believe or disbelieve the testimony of witnesses although the testimony be uncontradicted;" *Marcella v. Commissioner*, 222 F. 2d 878, 883 (C. A. 8, 1955): "The trial court is not compelled to believe evidence which to it seems improbable, or to accept as true uncorroborated evidence of interested witnesses, even though uncontradicted;" and *Daniels v. Souders*, 195 F. 2d 780, 781, 90 App. D. C. 298 (1952), apparently overlooked by the Court of Appeals here: "The credibility of testimony is within the province of the trial court who saw

the witnesses and heard them speak." See also 43 *Am. Bar Journal* 797, 799, in which the author, a member of the staff of the Judge Advocate General of the Air Force, referred to the revised Uniform Code of Military Justice, which authorizes a board of review to weigh the evidence and judge credibility, as "a power unique in appellate procedure." Moreover, that unique power to judge credibility was authorized in the military code as a means to protect the accused, not as a way to hang him as in the instant case.

As the Court of Appeals has left the matter, petitioner would be in good standing in respondent Union, if he had lived in California where he could have brought suit against respondents, as Gonzales did. Or contrary wise, if Gonzales had lived in Missouri and forced to sue in the District of Columbia, he would now be out of the Union and out of a job, on the precedent of the Court of Appeals. While state courts on occasion do reach opposite results, there ought not to be a federal precedent to add to the confusion. Only this Court can settle the anomalous situation of inter union rights resting upon the accident of geography.

5. An additional reason for granting the writ, is that the decision in the instant case appears to be contrary to that of the same court in *Teamsters v. Cunningham*, 41 LRRM 2044, Nov. 4, 1957, not reported elsewhere. There the Court of Appeals upheld an order of the District Court enjoining international officers of the Teamsters Union from expending certain monies, and from taking the offices to which they were elected. Certainly that decision injects the court into the internal affairs of a trade union far more than the relief sought by petitioner. The protection of union funds against misuse, and the protection of the union ballot box are important matters, clearly justifying the intervention of a

court of equity. However, it would seem that the damage to petitioner caused by his expulsion from the union, should also be a matter of concern to the courts, as it affects his job, his livelihood, his honor and his reputation.

CONCLUSION.

For the foregoing reasons, this petition for a writ of certiorari should be granted.

Respectfully submitted,

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Counsel for Petitioner.

APPENDIX A.

Opinion of Court of Appeals.

UNITED STATES COURT OF APPEALS
For the District of Columbia Circuit.

No. 13819.

International Association of Machinists, et al.,
Appellants,

v.

Al Friedman, Appellee.

Appeal from the United States District Court
for the District of Columbia.

Decided February 20, 1958.

Mr. James L. Highsaw, Jr., with whom Mr. Edward J. Hickey, Jr., was on the brief, for appellants.

Mr. Victor B. Harris, with whom Mr. Seymour Krieger was on the brief, for appellee.

Before Fahy, Washington and Danaher, Circuit Judges.

Fahy, Circuit Judge: The problem is whether appellee, Friedman, was expelled from membership in the International Association of Machinists, a labor organization, in a manner which entitles him to judicial redress.[1] The District Court, holding that he had not been afforded minimal

[1] The case was here before on the question of jurisdiction of the District Court. *Friedman v. International Ass'n of Machinists*, 95 U. S. App. D. C. 128, 220 F. 2d 808, *cert. den.* 350 U. S. 824.

fairness in intra-Association appellate procedures, enjoined expulsion for the time being but retained jurisdiction for subsequent consideration of additional proceedings which might be accorded him by the Association.

Appellee was a member of Lodge No. 688 of the Association at St. Louis. He was formally charged by one Weber, member of another Lodge, with violation of Article XXV, Section 2, of the Grand Lodge Constitution of the Association, "specifically . . . with advocating, encouraging and supporting Communism and also with being a member of the Communist Party."[2] This constitutional provision reads as set forth in the margin.[3]

The Lodge President referred the matter to a Trial Committee[4] which, after a full hearing, found appellee not guilty "due to lack of sufficient and positive evidence." The Lodge affirmed by a membership vote of 95 to 26.[5]

Weber appealed to the International President, hereinafter referred to as the President, by sending to him a letter[6] in which he outlined the charges and his version

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[2] The full text of the charge is set forth in note 14, *infra*.

[3] Any member or members of any local lodge who attempt to inaugurate or encourage secession from the Grand Lodge or any local lodge, or who advocate, encourage, or attempt to inaugurate any dual labor movement, or who violate the provisions of the Constitution of the Grand Lodge, or the Constitution for Local Lodges, or any member who advocates or encourages Communism, Fascism, Nazism, or any other totalitarian philosophy, or who, by other actions gives support to these "philosophies" or "isms," shall, upon conviction thereof, be deemed guilty of conduct unbecoming a member and subject to fine or expulsion or both.

[4] In accordance with Article K, § 2 of the local lodge constitution.

[5] See Article K, § 6.

[6] Article K, § 9:

Appeals may be taken from the decision of any local lodge or Grand Lodge Office to the International President . . .

of the evidence. The President by letter informed the Lodge of the appeal and directed the record to be sent to him.[7] Appellee was present at the Lodge meeting when the President's letter was read. He was not furnished a copy of Weber's appeal letter, nor did he request a copy. He wrote the President that the constitution reserved the right of appeal to a member who had been convicted, and that Weber could not appeal appellee's acquittal by the Lodge.[8] He requested no hearing before the President and none was held. The President, in a rather full written review of the evidence, found that "the record establishes clearly that Defendant Friedman has advocated and encouraged Communism and given support to the spread of the Communist philosophy in the U. S. A." On the basis of the "verbatim transcript" he found that appellee "has supported a movement dual in purpose to the International Association of Machinists in violation of the Grand Lodge Constitution." Under his constitutional authority, and particularly Article XXV, Section 3,[9] the President ordered appellee's expulsion from the Association.

Appellee then appealed to the Executive Council of the Association. His request for an oral hearing there

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[7] The record consisted of the charges filed, transcript of the trial, report of the Trial Committee, and excerpts from the Lodge minutes dealing with action on the Trial Committee report.

[8] He added,

> I do not believe it necessary to detail the lack of merit in the original charges and to cite the abundant supporting evidence in our Constitution which clearly reserves the right of appeal to the defendant in a trial case. I request that you deny the plaintiff Weber's appeal forthwith, on the basis that it clearly violates the acquitted defendant's Constitutional rights.

[9] Article XXV, § 3:

> The International President and Executive Council shall have authority to expel any member guilty of joining, or participating in any dual organization.

was denied but he was given ample time to prepare and file a brief, through counsel, which he did. The Executive Council sustained the President. He now appealed to the Grand Lodge Convention,[10] where the matter was referred to the Appeals and Grievance Committee in accordance with established procedure. Appellee was granted an oral hearing before this Committee, but not otherwise before the Convention as he requested. He was informed that this also accorded with established policy. The Committee reported to the Convention that appellee was guilty of violating Article XXV, Section 2, of the constitution, and recommended his expulsion. The Convention adopted the report and recommendation, followed by appellee's resort to the courts.

On cross motions for summary judgment, heard on the pleadings, exhibits and affidavits of the parties, the District Court found that the evidence which was before the Association "could be the basis for a determination, after proper appellate procedure, that the plaintiff actively engaged in Communist activities, had been issued a card in the Communist Party, and had recruited members of the Communist Party from members of his local lodge." The court also ruled that an appeal to the President was available to Weber, but held, as we have said, that appellee had not been accorded fair appellate procedures.

We too find no basis for holding that the evidence was insufficient, and we also agree with the District Court that the constitution, note 6, *supra*, in providing that appeals may be taken to the President, employs words that are inclusive rather than exclusive, and "it cannot be assumed that the Association intended to leave the discipline of its members entirely in the hands of the members of the local lodge to which a member might be-

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[10] See Article XXV, § 6 of the Constitution.

long." This interpretation of the constitution, not inconsistent with its language, has been adopted by the Association's President, Executive Council, and Grand Lodge Convention, which measurably adds to its weight.[11]

We are unable to agree, however, that the procedures within the Association were not adequate. While membership in a labor organization is valuable and may not be legally taken away, see *Friedman v. International Ass'n of Machinists, supra*, the courts should not upset the Association's management of its affairs unless its decision is inconsistent with fundamental fairness, or was reached in violation of the organization's own rules, or otherwise constitutes "illegal action." See, for example, *Green v. Obergfell*, 73 App. D. C. 298, 307, 121 F. 2d 46, 55; *Davis v. International Alliance*, 60 Cal. App. 2d 713, 141 P. 2d 486; *Becker v. Calnan*, 313 Mass. 625, 48 N. E. 2d 668; *Rubens v. Weber*, 237 App. Div. 15, 260 N. Y. S. 701, 705 (1st Dep't); *Margolis v. Burke*, 53 N. Y. S. 2d 157, 161 (Sup. Ct.); *Simpson v. Grand Int'l*, 83 W. Va. 355, 98 S. E. 580, 587.

Appellee did not have a copy of Weber's letter to the President until the case came to court; but this was not such a procedural defect as invalidated the intra-Association proceedings. Appellee rested his case before the President solely upon the legal proposition that no appeal was available to Weber.[12] He knew that Weber had sent in an appeal but he made no effort to learn its content. No rule or regulation covered the matter, and there was no deliberate withholding of information. The decision of

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[11] *Harris v. Missouri Pac. R.*, 1 F. Supp. 946 (E. D. Ill.); *Burke v. Monumental Div., Locomotive Engineers*, 273 Fed. 707, 712 (D. Md.). And see *Communications Workers, CIO, v. NLRB*, 215 F. 2d 835, 838 (2d Cir.).

[12] Appellee concluded his letter to the President as set forth in note 8, *supra*.

the President contains an independent analysis of the transcript, recites that the President had received "a copy of the charges filed by Brother Weber, together with a copy of the transcript of the hearing before the Trial Committee and other information dealing with the case . . . together with his appeal. . . ." and states that the President had reviewed "all the testimony and other evidence submitted in this case." Appellee made no further move at the presidential level notwithstanding these recitals. Moreover, appellee subjected the President's decision to attack before the Executive Committee and the Appeals and Grievance Committee of the Grand Lodge Convention, with full knowledge of its content.

Appellee also contends that the President could not impose a penalty not prescribed by the Lodge. The point seems to be that Article K, Section 7 of the Constitution for Local Lodges requires a two-thirds vote for expulsion.[13] The point further seems to be bound up with the fact that the charges filed by Weber[14] alleged violations of Article XXV, Section 2, of the Grand Lodge Constitution, while the decision of the President referred "particularly" to Section 3 of that Article, note 9, supra. The solution is that Article XXV, Section 3, gives the President himself authority to expel, independently of Article

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[13] Sec. 7. The recommendation of the committee may be amended, rejected, or another punishment substituted therefor, by a majority vote of those voting on the question, excepting that it shall require a two third (2/3) vote of those voting to expel the defendant from membership.

[14] I, Lloyd Weber, Card No. 464197, member of Lodge 787, District No. 9, hereby prefer charges against Brother Al Friedman, Card No. H-93065, member of Lodge 688, for violation of Article XXV, Section 2, of the Constitution of the Grand Lodge of the I. A. of M.

Specifically, I charge this Brother with advocating, encouraging and supporting Communism and also with being a member of the Communist Party.

K, Section 7, if the offense is "joining, or participating in any dual organization." The legislative history of Article XXV, Sections 2 and 3, discussed infra, shows that the Communist movement is such a dual organization within the meaning of these provisions.

The President utilized his own expulsion authority after finding that appellee had engaged in activities directed "toward the advancement of the Communist philosophy in the United States" and had "supported a movement dual in purpose to the International Association of Machinists." His decision must fairly be read also as including a finding that appellee had assisted or encouraged the Communist Movement.[15] In setting aside the decision of the Lodge, "based upon the record in the case," he found appellee "guilty and hereby expel him from membership in our Association." Thus, the President found appellee guilty of the charges, ruled that this constituted participation in a dual organization, and exercised the authority he possessed in such circumstances under Section 3. We find no reason for judicial repudiation of this procedure. It seems a fair and permissible means available to the Association for reaching the conclusion that appellee had encouraged and supported Communism, was a member of the Party, and, accordingly, could be expelled for dualism.

Appellee says that the evidence is insufficient to sustain the charges in that it failed to establish that appellee was engaged in Communist activity after April 1, 1949, the effective date of the constitutional provision he

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[15] The decision states *inter alia*:

> While it is agreed that the defendant has a right to think as he chooses, the Grand Lodge Constitution governing our organization makes it obligatory to deny membership in our Association to anyone who assists or encourages the Communist Movement.

was charged with violating. We agree with the District Court in rejecting this contention. The provision adopted April 1, 1949,[16] was declaratory of pre-existing Association law governing membership. As far back as 1925 the Executive Council, then known as the Executive Board, issued official circular No. 183 to the officers and members of all Local Lodges reciting the decision of the Board that the Communist Party had the ultimate purpose of destroying the trade union movement of America and that its secret activities constituted a dual organization to the International Association of Machinists "within the meaning of the terms as set forth in the Constitution, Article XXII," referring to the Association Constitution as it then read. This circular also stated that the Board had adopted a motion that the Communist Party, among other organizations, is antagonistic in character and dual in nature to the Association, and all members were notified that on or after October 15, 1925, no member of the Association could hold membership in or affiliation with any such dual organization. The circular said this action was required by the 1924 Convention of the Grand Lodge. Again, under date of February 6, 1947, the Executive Council issued a declaration of policy to all officers and members of all Local Lodges, referring to the circular of August 15, 1925, quoting from it with respect to dual organizations and membership, stating that Communism and other totalitarian ideologies now imposed an even greater threat, and advising that the Executive Council had unanimously resolved that any individual who encourages Communism or other totalitarian philosophies, or supports them, "is not eligible to membership in the I. A. of M."; and that any member of the Association who encourages Communism or other totalitarian philosophies or supports them, is subject to

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[16] The charges were filed March 14, 1952

the charge of "improper conduct" and trial under "Article K-Code" and if guilty shall be expelled. The declaration concluded, "it is expected that every local and district lodge, as well as the entire membership will take due notice of the announced policy and be governed accordingly." In a revision of the Association Constitution effective April 1, 1949, the present Article XXV, Section 2, was added.

For us to hold in the above circumstances that the evidence against appellee must associate him with a dual organization subsequent to April 1, 1949, we think would do violence to the Association's right to control its membership in a respect within its competence. The constitution as revised April 1, 1949, embodied a continuation of existing policy in the respects here pertinent and did not wipe the slate clean to be effective in those respects only *in futuro*. One who desires the advantages of membership ought to be held to the obligation of abiding the organization's rules against communistic dualism.

Considering the foregoing, and other questions raised, in the light of the relationship of judicial review to control by a labor organization of its membership, we think appellee's expulsion should not be restrained. The judgment of the District Court accordingly is reversed, and the case remanded for grant of the motion of the Association for summary judgment.

It is so ordered.

UNITED STATES COURT OF APPEALS
For the District of Columbia Circuit.

January Term, 1958.

International Association of Machinists et al.,
Appellants,
vs.
Al Friedman,
Appellee.
No. 13,819.

United States Court of Appeals for the District of Columbia Circuit.

Filed Feb. 20, 1958, Joseph W. Stewart.

Appeal from the United States District Court for the District of Columbia.

Before: Fahy, Washington and Danaher, Circuit Judges.

Judgment.

This cause came on to be heard on the record from the United States District Court for the District of Columbia, and was argued by counsel.

On consideration whereof, It is ordered and adjudged by this Court that the judgment - - - of the said District Court appealed from in this cause be, and the same is hereby, reversed, and that this cause be, and it is hereby, remanded to the said District Court with directions to grant the motion of the International Association of Machinists for summary judgment.

It is further Ordered by the Court that appellants herein recover from appellee their taxable costs on this appeal and have execution therefor.

Per Circuit Judge Fahy.

Dated: February 20, 1958.

In the
UNITED STATES DISTRICT COURT
For the District of Columbia.

Al Friedman,

Plaintiff,

v.

International Association of Machinists, A. J. Hayes, Individually and as International President of the International Association of Machinists and Member of its Executive Council, Eric Peterson, Individually and as General Secretary-Treasurer of the International Association of Machinists and Member of its Executive Council, and Elmer E. Walker, Individually and as General Vice-President of the Executive Council of the International Association of Machinists and Member of its Executive Council,

Defendants.

Civil Action No. 4528-52.

Memorandum.

Morris, J. Plaintiff brings this suit seeking injunctive relief from his expulsion as a member of the Tool and Diemakers Lodge No. 688 of defendant International Association of Machinists. On March 14, 1952, charges were filed against plaintiff by the business agent for his district of the Association, pursuant to Section 1, Article K, of the Constitution of the Association, charging plaintiff "with advocating, encouraging and supporting Communism, and also with being a member of the Communist Party." In accordance with the Constitution of the Association, a trial committee was appointed by the president of plaintiff's lodge, before whom trial was had on March 24, 1952. The

trial committee, on March 28, 1952, submitted its report to the membership at a regular meeting of the lodge as follows:

> We, the members of the trial committee of the case of Lloyd Weber versus Al Friedman have after long and serious deliberation and much discussion of the evidence presented find the defendant not guilty as charged due to lack of sufficient and positive evidence.

The members of the lodge at such meeting voted 95 to 26 to sustain the "not guilty" verdict. The complainant took an appeal from this action to the President of the International Association, who set aside the decision of the Lodge, found the plaintiff guilty, and expelled him from membership in the Association. Appeal from the action of the International President was taken by the plaintiff to the Executive Council of the Association, and from its affirmance to the Grand Lodge Convention, which also affirmed the finding of guilty and plaintiff's expulsion.

It is the plaintiff's contention that no right of appeal from a verdict of "not guilty" is permitted under the Constitution of the Association; that, if thereby permitted, such procedure violates "fundamental principles of democratic procedure," and that the appellate proceedings were illegal because he was not permitted to be present, or have proper representation, at such proceedings.

Courts have generally upheld appeals from "not guilty" verdicts of members of voluntary associations when the constitution of the association explicitly provides therefor, **Simpson v. Grand International Brotherhood of Locomotive Engineers**, 83 W. Va. 355, 98 S. E. 5960, cert. den. 250 U. S. 644; **Callahan v. Order of Ry. Conductors**, 169 Wis. 43, 171 N. W. 653; **Reubens v. Weber**, 237 App. Div. 15, 260 N. Y. S. 701; **Pfoh v. Whitney**, 62 N. E. (2d) 744. It is said that the members consent to, and are bound by, regulations and laws of the association when they become one of its mem-

bers, and that, if such regulations are reasonable, courts, in reviewing proceedings to discipline a member, will inquire only to see whether such proceedings have been in accordance with the constitution and by-laws of the association, whether the charges are substantial, whether the member has had fair notice and opportunity to be heard, and whether malice has been employed in arriving at the decision.

Section 9, Article K, of the Constitution of this Association provides:

> Appeals may be taken from the decision of any local lodge or Grand Lodge Officer to the International President, * * *. Thereafter appeals may be prosecuted in accordance with provisions of Section 6,[1] Article XXV of the Grand Lodge Constitution.

The plaintiff contends that, because no words explicitly granting to the complainant a right of appeal, no such appeal is allowable. I do not agree with this contention. The words employed are inclusive rather than exclusive, and without the latter it cannot be assumed that the Association intended to leave the discipline of its members entirely in the hands of the members of the local lodge to which a member might belong. This is particularly so when

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[1] Sec. 6. Appeals may be taken from the decision of the International President to the Executive Council. Appeals may be taken from the decision of the Executive Council to a convention of the Grand Lodge, or to the membership at large by submission thereof through the referendum. All appeals shall be laid before the body to whom addressed through the General Secretary-Treasurer. Before any appeals can be taken from any decision of the Executive Council, the decision, and all orders of the Executive Council in relation thereto, must be fully complied with by all parties concerned therein in order to entitle them to enter an appeal, and in no case shall any district or local lodge, or any individual member or members thereof, appeal to the civil courts for redress until after having exhausted all rights of appeal under the provisions of this Constitution. No member of the Executive Council shall have a vote on any appeal on which he has already rendered a decision.

the ultimate decision is lodged in the Grand Lodge in convention, or in the membership at large through referendum. However, where an appeal is taken from a determination that the accused is not guilty, before a judgment may be reached that he is guilty, it is manifestly clear that full opportunity must be given at every stage in such appellate procedure for the accused to be heard and to reply to matters, both of law and fact, urged against him. The practice employed here is unlike the conventional appellate proceedings where the determination of the appellate tribunal normally affirms the judgment or reverses for error and remands the case for a new trial where the defendant has full opportunity to present his defense.

There was evidence at the trial which could be the basis for a determination, after proper appellate procedure, that the plaintiff actively engaged in Communist activities, had been issued a card in the Communist Party, and had recruited members of the Communist Party from members of his local lodge. The plaintiff contends now, as was his principal contention at the trial, that there was no such evidence with respect to any action subsequent to the adoption on April 1, 1949, of Section 2, Article XXV, of the Constitution, under which plaintiff was charged. It was clearly a matter for proper appellate consideration as to whether or not the plaintiff is chargeable with knowledge of decisions of the Association prior to his membership therein holding Communist activity to be violative of its laws covering "dual unionism" and "improper conduct," and of motion[2] adopted by the Executive Council,

[2] That the Trade Union Educational League, the Workers or Communist Party, the Young Peoples' League, or Young Workers' League are antagonistic in character and dual in nature to the International Association of Machinists.

That all members of the International Association of Machinists who are also members of any of the said dual organizations be given a 60-day notice within which they shall sever all connections with the said dual organizations, or relinquish their membership in the International Association of Machinists.

circularized in Official Circular No. 183, under date of August 15, 1925, and of motion[3] adopted by the Executive Counsel on January 13, 1947, circularized in Official Circular No. 474, under date of February 6, 1947.[4]

The following allegation of the complaint gives rise to much concern:

> The procedure at the said Grand Lodge Convention was controlled completely by defendants. Plaintiff's request to appear before said Convention was refused; and said Convention was misinformed by the defendants and their agents as to the facts involved and as to plaintiff's position thereon.

In his memorandum of points and authorities in support of his motion for summary judgment, plaintiff seems to have converted this charge into two other charges, namely, that the appeal to the International President was taken without notice to him and without giving him an opportunity to be heard, and that the Appeals and Grievance Committee of the Convention, appointed by the International President, and completely controlled by him and

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[3] That any individual who advocates or encourages Communism, Fascism, Nazism, or any other totalitarian philosophy, or who, by other actions, gives support to these "philosophies" or "isms" is not eligible to membership in the I. A. of M.

That any member of the International Association of Machinists who advocates or encourages Communism, Fascism, Nazism, or any other totalitarian philosophy, or who, by other actions, gives support to these "philosophies" or "isms" is subject to the charge of "improper conduct" and trial under "Article K—Code"—and if guilty shall be expelled.

[4] Article I, Section 4, and Article IV, Section 2, of the Constitution, provide that between conventions all executive and judicial power of the Association is vested in the Executive Council, and that sessions thereof "shall have the same authority to initiate legislation as has a delegate convention." The section under which plaintiff was charged, therefore, served to make activity which "advocates or encourages Communism, Fascism, Nazism, or any other totalitarian philosophy, or * * * gives support to these 'philosophies' or 'isms'" a separate offense.

the other defendants, merely listened to plaintiff in silence, asked him if he had anything more to say and directed his removal from the hearing room, and thereafter heard one of the witnesses who had testified against plaintiff before the trial committee and a member of the Executive Council.

Exhibits attached to defendants' motion for summary judgment show that the complainant at the original trial wrote the International President a letter, in which he filed an appeal and summarized evidence at the trial of plaintiff's guilt, and enclosed copy of the verbatim transcript of the trial. The International President then addressed a letter jointly to the president and the recording secretary of the local lodge, advising that an appeal had been taken, and directing that he be furnished with certain papers respecting the trial. In his letter transmitting the requested papers, the recording secretary stated:

> Your letter will be read at the next meeting of the Lodge so that the membership present will know that an appeal has been made to the International President, in regard to the decision of Lodge No. 688, in the subject case of Weber vs. Friedman.

Seven days after the date of the recording secretary's letter, plaintiff wrote the International President as follows:

> I am writing concerning the appeal by plaintiff Lloyd Weber, in the case of Weber vs. Al Friedman (H93065) which was voted on by Lodge 688, District No. 9, at its regular meeting of March 28, 1952.
>
> Your communication announcing the appeal and requesting the official results was read to Lodge 688 on April 25, at its regular meeting.
>
> Nowhere does our Constitution give the right to appeal to a plaintiff in a trial. Certainly Article K, Section 9, under which Weber seeks to appeal is clearly and unequivocally reserved to a defendant who may have been found guilty by his local Lodge.

> I do not believe it necessary to detail the lack of merit in the original charges and to cite the abundant supporting evidence in our Constitution which clearly reserves the right of appeal to the defendant in a trial case. I request that you deny the plaintiff Weber's appeal forthwith, on the basis that it clearly violates the acquitted defendant's Constitutional rights.

In a lengthy letter of May 5, 1952, to the president and recording secretary of the local lodge, the International President made findings "based upon the record" in the case and conclusions, setting forth considerable of the evidence of guilt and the established law and policy of the Association, and decided:

> Careful examination of all the testimony presented at the trial reveals that certain activities of the Defendant have been directed toward the advancement of Communist philosophy in the United States. • • •
>
> I am therefore setting aside the decision of the Lodge in this matter and, based upon the record in the case, I find the Defendant guilty and hereby expel him from membership in our Association. The expulsion of Defendant • • • shall be effective as of this date. • • •

There is no question that the plaintiff has had actual knowledge that an appeal had been taken to the International President, or that he submitted certain matters contesting the appeal, but it is equally clear that he was not given an opportunity to hear and be heard with respect to the matters which induced the International President to reverse the action of the lodge finding him not guilty.

Both plaintiff and his counsel requested permission to be present when his appeal was taken up by the Executive Counsel, and in a letter from defendant Peterson, General Secretary-Treasurer, plaintiff was advised:

> Your inquiry as to whether or not it is permissible for you to appear before the Executive Council in person, can be answered by pointing out that this is a matter on which the Executive Council, itself, has to rule. It may be helpful to point out that very seldom does the Executive Council grant that type of request, inasmuch as it is considered that a member appealing a decision from the International President has ample opportunity of presenting in written form, all of his reasons why the decision should be set aside.

and plaintiff's counsel was advised by the same person:

> As I have previously informed Brother Al Friedman —as a matter of policy—the Executive Council of the International Association of Machinists, A. F. L., does not hear oral argument concerning the merits of an appeal to them from a decision of the International President.

Later plaintiff was advised, in a letter from defendant Peterson:

> In reply to your letter of May 19, addressed to the Executive Council, wherein you request an opportunity to appear before the Council in person, together with counsel of your choice, in order to argue your appeal from the decision of the International President in the case of Weber v. Friedman, Lodge No. 688, dated May 5, 1952, you are now advised that your request was placed before the Council and after due consideration they voted not to grant your request.

Plaintiff's counsel did file a somewhat lengthy brief, in which the stages of the trial were set forth, and argument made respecting the legal positions urged by plaintiff and the lack of evidence to support the findings of the International President. Here again, it being evident that the hearing before the Executive Council was in effect a continuation of the trial itself, it required that the plaintiff

be given an opportunity to hear and to be heard on the matters being considered.

Excerpts from the proceedings of the Grand Lodge Convention are filed as an exhibit to defendants' motion for summary judgment, and contain the report of the Appeals and Grievance Committee:

> The files contained a request by the appellant to appear before your Committee in his own behalf. * * *
>
> * * * * * * *
>
> The appellant did appear before your Committee. At his appearance the accused Friedman relied almost entirely on the point that the plaintiff had no right to appeal the acquittal by the Local Lodge. We find no merit in this contention in view of the provisions of Article K, Section 9, of the Constitution which provide for appeal from the decision of any local lodge. The Section does not limit appeal only from verdicts of guilty. Also appeared before this Committee Brothers Fred Spechman, William King, Henry Eves and John Graff of Lodge No. 688 and Brother Russell Davis, District No. 9, Brother Russell Johnson, Lodge No. 1402, and Brother James Richardson, Lodge No. 1947, as well as General Vice President P. L. Siemiller in behalf of the Executive Council.
>
> Conclusion.
>
> A review of all the evidence before us: the transcript; the Decision of May 5, 1952, of the International President; and the subsequent action of the Executive Council, compels the conclusion that there is ample and sufficient evidence on the record as a whole to support the finding of a violation of Article XXV, Section 2, and warrant the verdict of Guilty and penalty of expulsion. We find and conclude that Al Friedman, at all times material herein, was a mem-

ber of the Communist Party; that he advocated Communism; that he encouraged Communism; and that he gave support to Communism. As a result we conclude he merits the penalty of expulsion, and we recommend that the delegates in Convention assembled so find and conclude. To the extent, however, that the findings and conclusions of both the International President and the Executive Council may be inconsistent or in conflict with our findings, conclusions and recommendations, they are so modified.

The conclusion reached is that the plaintiff has not been accorded the procedures on appellate review which are the minimal requirements of fairness necessary to the reversal without further trial of a determination of not guilty, particularly where, as here, the livelihood of the accused is so directly involved with his right to membership in the union. In this view, injunctive relief will be granted to the plaintiff against his expulsion, unless and until he has been accorded the benefit of appellate proceedings in which at each stage he is given full opportunity to hear and to be heard, both as to law and the facts upon which it is sought to make a finding of guilty. The order of this Court shall be without prejudice to the defendants to prosecute such appellate proceedings, and to take appropriate action pursuant thereto.

Counsel will prepare an appropriate order to carry this decision into effect.

/s/ Jas. W. Morris,
Judge.

January 7, 1957.

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No. 987.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1957.

AL FRIEDMAN,
Petitioner,

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS et al.,
Respondents.

PETITIONER'S REPLY BRIEF ON PETITION FOR WRIT OF CERTIORARI.

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I.

The Decision of the Court of Appeals Is National in Scope and Presents an Important Question of General Application.

Respondents, in urging that certiorari be denied, refer to a West Virginia decision "involving similar issues" in which this Court denied certiorari,[1] as constituting a type

[1] *Simpson v. Grand International Brotherhood*, 83 W. Va. 335, 98 S. E. 506, cert. den. 250 U. S. 644 (1919).

of action "not reviewed by this Court" (Respondents' brief, p. 8). Respondents say, p. 9, that such review "would open the door wide" to this Court for a "multitude of state court decisions involving union disciplinary proceedings." However, no such calamity is in progress here, the basis for the requested review being quite different than respondents construe it.

Moreover, respondents do not question petitioner's assertion, p. 12, that: "The precedent established by the Court of Appeals * * * affects all of America's 15,000,000 union members." Respondents' brief, p. 8, adds support to this assertion by pointing out that the instant case "is a type of action heard regularly by state courts throughout the country." Indeed it is; and it is precisely because the Court of Appeals for the District of Columbia has for the first time entered this important field of union disciplinary procedure, that a reviewable question is presented. It is the federal precedent established, national in scope, that is important.[2] A review of that precedent would not necessarily open the door to review of state court decisions. But even if it did, that fact would constitute no reason for denial of certiorari here.

Clearly, the state courts in the "multitude" of decisions referred to in respondents' brief involving union disciplinary proceedings, will be influenced by the instant decision—more than likely they would feel themselves constrained to follow it. *Hence, we submit, that if the federal precedent for union disciplinary proceedings is to be the narrow one adopted by the Court of Appeals here, which is contrary to the almost unanimous trend of*

[2] The petition (p. 13) cites *Del-Vecchio v. Bowers*, 296 U. S. 280, 285, 56 S. Ct. 190, 193 (1935), and *Unemployment Compensation v. Aragon*, 329 U. S. 143, 67 S. Ct. 245 (1946), in support of that position. Respondents' brief makes no reference either to the contention itself, or the cases cited in support thereof.

modern decisions, such an important stand should be adopted only after full consideration by this Court.[3]

II.

Contrary to Respondents' Contention, the Petition Points Out Legal Errors by the Court of Appeals, Such as Permitting Those Who Did Not Hear the Witnesses to Accept Their Testimony as True Even Though the Trial Committee Disbelieved It.

Respondents' brief states that "strangely enough" petitioner does not contend that the Court of Appeals incorrectly applied existing legal principles, or that the findings of the Court of Appeals were "contrary to established legal principles" (pp. 12, 14). However, the petition, pp. 13-21, discusses at some length legal principles which petitioner contends were ignored or incorrectly applied by the Court of Appeals. In addition, at pp. 12-13 are listed six separate violations of petitioner's rights which were overlooked or condoned by the Court of Appeals.

[3] See pp. 13-18 of the petition for the more recent authorities. Moreover, since this petition was filed, the Court of Appeals of New York has adopted the modern view, holding that there must be "public policy touching the government of labor unions" and that such policy should be "traditionally democratic." *Madden v. Atkins*, May 1, 1958, 42 LRRM 2161, 2164, not reported elsewhere. Respondents' brief makes no reference to the recent authorities which, without exception, reject the narrow view of the Court of Appeals here. Likewise, the Court of Appeals made no reference to these authorities. Respondents' only reference to the point—if indeed it is such a reference at all—is *Sanders v. International Association of Bridgeworkers*, 235 F. 2d 271 (C. A. 6, 1956), holding that public policy permits a union to expel a member properly found guilty of an expellable offense. In that case the member was admittedly guilty, but in spite of that the District Court felt that expulsion was too great a penalty under any circumstances, since expulsion deprived the member of his right to work. The Sixth Circuit reversed, and held that the expulsion was proper under the circumstances there presented. The case is not in point. Petitioner has never contended that expulsion was impossible from Respondent Union; but only that such expulsion must be in accord with ordinary principles of justice.

As pointed out in the petition, Footnote 5, p. 15, the cases cited by the Court of Appeals are comparatively old and contrary to the almost universal trend of the modern decisions. Respondents' brief does not directly challenge this contention. The only decision even mentioned by respondents in this connection is *Gonzales v. Ass'n of Machinists*, 142 Cal. App. (2) 207, 298 P. (2) 92 (1956), reviewed by this Court May 26, 1958. The discussion of that case, however, does not really dispute that *Gonzales* is contrary to the Court of Appeals in the instant case; in fact, seems to concede the conflict. It should be noted, moreover, that petitioner does not contend, as respondents say he does, that conflict between the California state court in *Gonzales* and the Court of Appeals here, would in and of itself constitute a ground for granting certiorari as a means of securing uniformity among the various courts of appeal. *Gonzales* was cited as a particularly pertinent recent decision in support of the modern trend—since the same union constitution was involved—and to emphasize the national significance of the Court of Appeals' decision here to the contrary.[4]

As to leaving credibility to the triers of the facts (pp. 18-21 of the petition) respondents state that the rule applies only to judicial decisions and not to administrative proceedings (footnote 5, p. 10, respondents' brief). Respondents, however, cite no authority for that position, which would permit an administrative tribunal to accept as true testimony which it did not hear, and then base findings thereon, after the triers of the fact had rejected

---

[4] Respondents also cite *Weinstock v. Ladsky*, 93 N. Y. S. 2d 85, a decision of a New York trial court, holding that trade unions have the right to protect themselves from Communist infiltration. The case has no application to any issue here. Petitioner has never suggested that unions do not have the right to discipline members for Communist activity, or for any activity that would legitimately require discipline. Petitioner has and does insist, however, that he is entitled to a fair trial in such proceedings.

the testimony. Well established principles of ascertaining truth and protecting the rights of an accused are, of course, the same, regardless of the nature of the tribunal.

III.

There Is a Conflict in Principle Between the Court of Appeals' Decision Here Where It Applied the Old View of Non-Interference in Union Internal Affairs and in the Teamsters Case Where It Permitted the District Court to Inject Itself Completely Into the Union's Internal Affairs.

Petitioner does not contend that the facts in *Teamsters v. Cunningham*, 41 LRRM 204, C. A. D. C., Nov. 4, 1957, have any similarity to those in the instant case, as respondents seem to say we do, pp. 10-11 of their brief. We did say that in the *Teamsters* case, the Court of Appeals permitted the District Court to inject itself into the internal affairs of a trade union to an extent unheard of during the time when unions were considered little more than fraternal societies and the courts adopted a hands-off policy. In the instant case, however, the Court of Appeals clung to the old hands-off position, as previously pointed out. We submit that these two positions are in conflict.

Conclusion.

For the foregoing reasons it is respectfully submitted that the petition for a writ of certiorari should be granted.

Respectfully submitted,

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No. 987

IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

AL FRIEDMAN, *Petitioner,*

v.

INTERNATIONAL ASSOCIATION OF MACHINISTS, ET AL.
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

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BRIEF OF RESPONDENTS IN OPPOSITION

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---

BRIEF OF RESPONDENTS IN OPPOSITION

OPINIONS BELOW

The opinion of the District Court (App. A of Petition, pages 33-42) is reported at 147 F. Supp. 1. The opinion of the Court of Appeals for the District of Columbia Circuit (App. A of Petition, pages 23-31) is reported at 252 F. 2d 846.

JURISDICTION

The jurisdictional requisites are adequately set forth in the Petition. However the Court of Appeals order denying rehearing was entered on March 17, 1958 (R. 280) rather than on April 15, 1958 as stated in the petition.

QUESTIONS PRESENTED

In the opinion of respondents, the questions presented by the petition are:

1. Did the Constitution of the International Association of Machinists, which authorizes an appeal to its International President "from the decision of any local lodge" and confers power on him to enforce the laws of the Association and to expel any member guilty of joining or participating in any dual organization, of which the Communist Party is one, lawfully permit the International President to entertain an appeal from the decision of petitioner's local lodge acquitting petitioner of charges of membership in the Communist Party and of advocating and encouraging Communism, and upon the basis of evidence in the appeal record which the courts below found sufficient to sustain the charges, order petitioner's expulsion from membership in the Association?

2. Should petitioner's expulsion be invalidated by judicial action based upon a claim of insufficient opportunity to be heard before the appellate tribunals of the Association when (a) he filed a written opposition to the appeal before the International President and did not ask for an oral hearing, (b) he was given an opportunity to present further evidence before the Executive Council of the organization, which he did

not use, (c) he was given the privilege of filing through counsel a written brief to the Executive Council and did so, (d) he was given an oral hearing before the Appeals and Grievance Committee of the Convention of the organization, and (e) petitioner's claims were not made to the Association or in his complaint in District Court, but were set forth for the first time nearly four years after the events in a motion for summary judgment?

STATUTES AND REGULATIONS INVOLVED

The petition correctly states that there are no Federal or State statutes or regulations involved.

STATEMENT

This litigation concerns the validity of action of the International Association of Machinists (hereinafter called the "Association") in expelling petitioner from membership in the Association for communist activity and membership in the Communist Party (R. 6).

In March, 1952, written charges were filed against petitioner in his local lodge in St. Louis, Missouri, alleging that he was in violation of the governing laws of the Association by advocating, encouraging and supporting Communism and by being a member of the Communist Party (R. 7). Such activity had been proscribed by the Convention of the Association as early as 1925, and the Executive Council of the organization had twice issued official circulars to the membership advising that violation of this rule subjected a member to expulsion. (R. 189-194)

A full evidentiary hearing was held on the charges against petitioner before a trial committee of the local lodge in accordance with the laws of the Association

(R. 89-165). The evidence directly linking petitioner with the Communist Party and communist activity included (1) testimony by a former official of the Communist Party in St. Louis that he issued petitioner party membership card number 94663 and that petitioner was a "trusted, respected leading member" of the party in the St. Louis area (R. 96, 97, 139); (2) testimony that petitioner acknowledged membership in the Communist Party and communist activity dating back to 1939 (R. 91, 92); (3) testimony by members of the Association that petitioner had made efforts to recruit them into membership in the party (R. 99, 110); (4) a photostat of petitioner's membership card in the Tom Paine Club, a communist front group, (R. 93, 99, 165); (5) testimony by an eyewitness as to petitioner's presence and participation in meetings of the Communist Party at its St. Louis headquarters (R. 98, 142-145); testimony by participants of meetings conducted by petitioner, some of them in his home, for the purpose of propogandizing members of the Association and indoctrinating them with Communist philosophy. (R. 99, 100, 104, 105-113); (6) testimony that petitioner resigned as president of his local lodge rather than sign the non-communist affidavit required by law (R. 93). Such evidence was direct non hearsay testimony by witnesses who confronted petitioner with full opportunity for him to cross examine, deny, or refute. Although petitioner formally pleaded not guilty to the charges against him (R. 90), he did not deny or attempt to rebut the specific items of testimony linking him with the Communist Party. (R. 149-152, 158-162). Both the District Court and the Court of Appeals found that the evidence was sufficient to support the charges against petitioner. (R. 243, 262).

In spite of the evidence, the trial committee of petitioner's local lodge recommended to the lodge that petitioner be acquitted. (R. 175). Its report did not contain a synopsis of the evidence as required by the laws of the Association. (R. 25, 185). The result was that the local lodge voted to acquit petitioner. (R. 176).

The complaining member appealed the action of the local lodge to the International President of the Association, Mr. Al Hayes, pursuant to the provisions of Article K, Section 9 of the constitution of the organization which authorizes such an appeal "from the decision of any local lodge." (R. 26, 166). Petitioner opposed the appeal on the grounds that (a) the constitution of the Association did not permit an appeal from a decision of acquittal by a local lodge, and (b) the charges against him were lacking in merit. (R. 173).

The International President considered the matter and handed down a written decision in which he extensively reviewed the evidence and made detailed findings. (R. 174). These included, *inter alia*, findings (1) that the case was properly before him on appeal (R. 176); (2) that the established law of the Association had forbid membership in the Communist Party or communist activity since 1925 (R. 186, 187); (3) that the record of the proceedings before the local lodge clearly established petitioner's violation of such Association requirements (R. 175-184); and (4) that communist activity was incompatible with membership in the Association and involved support of a movement dual in purpose to the Association in violation of its laws. (R. 186).

International President Hayes therefore set aside the decision of the local lodge, found petitioner guilty, and directed his expulsion from membership in the Association (R. 188).

Petitioner then exercised his right to appeal this action to the Executive Council of the Association (R. 196). He was given an opportunity to present further evidence (R. 203), but relied upon a written brief submitted by his counsel (R. 211).[1] Petitioner did not claim before the Council that the International President had denied him any procedural rights or that he had not been given a sufficient opportunity to be heard by that officer. His argument again was primarily lack of power in the International President to entertain an appeal (R. 212, 213). On review of the case, the Executive Council affirmed the expulsion (R. 221).[2] Petitioner finally appealed the matter to the Convention of the Association, the ultimate repository of authority within the organization (R. 223). The appeal was referred to the Appeals and Grievance Committee of the Convention which, after hearing Mr. Friedman in person (R. 231), recommended that the expulsion order be affirmed (R. 228-234). This recommendation was adopted by the Convention (R. 232). Petitioner raised no claim of procedural error before the Grievance Committee nor did he complain of any failure to be heard by either the International President or the Executive Council. (R. 229, 230).

---

[1] The Executive Council declined to hear oral argument on the contentions advanced by petitioner (R. 204).

[2] The Constitution of the Association prohibited the International President from participating in this decision (R. 20).

Petitioner thereafter filed his action in District Court to set aside the expulsion order. (R. 6).[3] This complaint did not allege any lack of opportunity to be heard before the International President, the Executive Council, or the Grievance Committee nor did it contain any other criticism of the procedures before these tribunals. It did allege that petitioner was not heard in person by the Convention (R. 9) although no request for such an appearance was ever addressed to that body.

The matter came on for hearing on counter motions for summary judgment (R. 84, 234). The District Court sustained the validity of the expulsion order against petitioner's principal claim that the International President of the Association could not entertain an appeal from the action of the local lodge and expel petitioner (R. 241). The Court also sustained the sufficiency of the evidence to support that order. (R. 243). The Court further rejected petitioner's claim that the laws of the Association did not prohibit Communist Party membership or activity until April 1, 1949, and that the evidence against him covered a period prior thereto (R. 243). However, the Court found that petitioner had not had full opportunity to hear and be heard in the appellate proceedings before the Association and on this ground set aside the expulsion (R. 246, 247).

The Court of Appeals agreed with the District Court's conclusions that International President

[3] Petitioner first filed suit in the District Court immediately after the action of the Executive Council asking that the expulsion order be declared invalid. This suit was dismissed on August 6, 1952, on the ground that petitioner had not exhausted his remedies within the Association. *Friedman* v. *International Association of Machinists et al.* (Civil Action No. 3367-52, U.S.D.C.D.C.)

Hayes had authority to entertain the appeal from the local lodge and expel petitioner, that there was adequate evidence on which to predicate such action (R. 262, 263), and that the laws of the Association had prohibited Communist Party membership and activity since 1925 (R. 265, 266). The Court did not agree that petitioner had not had sufficient opportunity to be heard (R. 263). It, therefore, reversed the District Court and directed that respondents' motion for summary judgment be granted (R. 267).

REASONS FOR NOT GRANTING WRIT

I

There Is No Question of Federal Law Involved

The petition raises no question involving the interpretation or application of any provision of the United States Constitution, any Federal statute, or of any regulation adopted by a Federal agency. Nor does it involve the application of any state constitution or statute. The suit is an action in equity grounded in the provisions of Title 11, Section 306 of the District of Columbia Code (1951 ed.) conferring equity jurisdiction on the District Court sitting as a state tribunal for the District of Columbia. (R. 44). It is predicated primarily upon claimed violations of the governing laws of the Association. It is a type of action heard regularly by state courts throughout the country, which are not reviewed by this Court. Indeed, this Court has heretofore specifically refused to review state court decisions involving similar issues. *Simpson* v. *Grand International Brotherhood of Locomotive Engineers*, 83 W. Va. 335, 98 S.E. 596, *cert. den.* 250 U.S. 644.

Petitioner claims that notwithstanding these facts, the Court should review the present case and should reverse the well-established law relating to judicial review of disciplinary actions by trade unions because such organizations have assumed a more important place in our economy. (Pet. 12-17). This argument was advanced to both the District Court and the Court of Appeals as a reason for invalidating the Association's action and was rejected. If accepted as a basis for reviewing the Court of Appeals decision, it would open the door wide to review by this Court of the multitude of state court decisions involving union disciplinary proceedings. Moreover, petitioner's argument is based upon a concept of public policy which is erroneous. The considerations of policy involved in union discipline cases were placed in their true perspective by the Sixth Circuit in *Sanders* v. *International Association of Bridge Workers*, 235 F.2d 271 (1956). In reversing a District Court order which had invalidated a union expulsion order on the ground that it was contrary to public policy because union membership was almost an economic necessity, the Sixth Circuit stated: (page 272)

> "The expulsion and debarment of appellant Sanders for life was a valid exercise by the union of its powers under its constitution and a legal exercise of its rights under the pertinent statute. As has been well said, 'A union must have authority to discipline its members, otherwise it will have no power to bargain effectively. Expulsion of an offending member is not so much a matter of discipline as it is a matter of protection of the Union. The preservation of an organization whose constitution and by-laws are lawful, by allowing it to expel those who seek to undermine it, is a stronger basis for public policy than

> the possible inability of the resurgent member to subsequently gain employment in his present occupation.'"

Petitioner also suggests that there should be review of the Court of Appeals decision because it involves the imposition of District of Columbia local law for misconduct which took place in Missouri and that the Court of Appeals decision is based upon principles contrary to Missouri law (Pet. 20, 21).[4] This argument has reference to the right of the International President to review the evidence and set aside the action of the local lodge as contrary thereto. Both the District Court and the Court of Appeals merely followed the well established law laid down by state courts on this subject. *Infra*, page 12. Respondents know of no decision in Missouri to the contrary and petitioner has cited none.[5]

II

There Is No Conflict of Decisions

The decision of the Court of Appeals does not conflict with any decision of any other circuit or of any Federal District Court.

Petitioner argues that the Court of Appeals decision is in conflict with an order entered by the same Court

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[4] Petitioner never suggested to either the District Court or the Court of Appeals that Missouri law should be applied or, if applied, would lead to any different result.

[5] The decisions cited by petitioner deal with appellate review of judicial decisions. As applied to administrative proceedings petitioner's argument leads to the conclusion that a Federal agency could not disagree with one of its examiner's as to the weight of evidence. As applied to a union it means that the organization would be rendered helpless to enforce its laws regardless of the evidence.

on November 4, 1957, in *Teamsters* v. *Cunningham*, 41 LRRM 2044. (Pet. 21). The Court of Appeals order to which petitioner refers merely sustained a District Court injunction pending a hearing on a suit alleging violations of the constitution of the Teamsters union in various respects. It obviously has no relation to the issues involved in the present case.

Petitioner also asserts that there is a conflict between the decision of the Court of Appeals and a California state court decision in *Gonzales* v. *Association of Machinists*, 142 Calif. App. 2d 207, 298 P.2d 92 (Pet. 18), with respect to the interpretation of the union's constitution. Petitioner relied upon this decision before both the District Court and the Court of Appeals and neither court accepted it as having any applicability on the facts before them. (R. 240-249; 259-267). In the *Gonzales* case, the International President on appeal by the disciplined member sought to impose a penalty not provided for by the union's governing laws. Here those laws specifically make participation in a dual organization an expellable offense, give the International President authority to enforce the provision by expulsion, and since 1925 have provided that joining or encouraging the Communist Party constitutes participation in a dual organization. (R. 264-265). Moreover, a conflict between a decision of a California intermediate state court[6] and a decision of a United States Court of Appeals

[6] The issue to which petitioner refers was not involved in the petition to the California Supreme Court for hearing and in this Court's subsequent review and decision in that case, which concerned the question of the division of jurisdiction between the National Labor Relations Board and state courts in a suit asking damage for improper expulsion. *International Association of Machinists* v. *Gonzales* (Case No. 31, decided May 26, 1958).

with respect to the interpretation of a union Constitution hardly is a basis to invoke this Court's review powers. The principle of conflicts in decisions as a basis for granting a petition for a writ of certiorari is for the purpose of securing uniformity of decision among United States Circuit Courts of Appeal. *Magnum Import Co.* v. *De Spoturno Coty*, 262 U.S. 159, 163 (1923). This Court clearly cannot undertake to resolve all conflicts of all courts in the nation particularly on such matters as interpretation of union constitutions.

III

The Decision of the Court of Appeals Is Correct

Strangely enough, nowhere does the petition allege that the decision of the Court of Appeals involves an incorrect application of existing legal principles. The reason therefore is clear.

Petitioner's basic contention that the appellate tribunals of the union could not review the action of his local lodge, no matter how much that action may have been in violation of the union's governing laws, finds no support in judicial precedent. Both the District Court and the Court of Appeals merely followed a well worn path on this issue. (R. 241, 263). *Simpson* v. *Grand International Brotherhood of Locomotive Engineers*, 83 W. Va. 355, 98 S.E. 580, *cert. den.* 250 U.S. 644; *Callahan* v. *Order of Railway Conductors*, 169 Wis. 43, 171 N.W. 653; *Reubens* v. *Weber*, 237 App. Div. 15, 290 N.Y.S. 701; *Pfoh* v. *Whitney*, 62 N.E. 2d 744; *Weinstock* v. *Ladisky*, 93 N.Y.S. 2d 85. The courts below were also clearly correct in finding that there was no limitation in the appeal provisions of the Constitution of the Association restricting appeals to only one class of cases as

suggested by petitioner and that the constitution of the organization conferred sufficient power upon the International President to order petitioner's expulsion for communist activity. (R. 242, 243, 263-265.)

The Court of Appeals also applied long established judicial precedents in considering and rejecting petitioner's contention that he was denied an adequate opportunity to hear and be heard before the appellate tribunals of the Association. The Court first noted that it should not upset the Association's management of its affairs unless the decision of the organization was inconsistent with fundamental fairness, in violation of the organization's own rules, or otherwise involved "illegal action." *Green* v. *Oberfell*, 73 App. D.C. 298, 307, 121 F. 2d 46, 55; *Davis* v. *International Alliance*, 60 Cal. App. 2d 713, 141 P. 2d 486; *Becker* v. *Calman*, 313 Mass. 625, 48 N.E. 2d 668; *Margolis* v. *Burke*, 53 N.Y.S. 2d 157, 161 (Sup. Ct.) (R. 263). The Court then considered the facts in the light of this principle and concluded that petitioner's expulsion should not be restrained (R. 263, 264). The Court pointed out that petitioner rested his case before the International President on the ground of a lack of power of such officer to entertain the appeal, that the International President made an independent analysis of the record, that petitioner had an opportunity to challenge the decision at the Presidential level and did not do so, and that he in fact subjected the decision to attack before the Executive Council and the Grievance Committee of the Association with full knowledge of its content. (R. 264). The Court of Appeals therefore believed that petitioner had received sufficient opportunity to be heard before the Association on the issues involved. (R. 267).

Petitioner does not state that these findings are contrary to established legal principles applicable to union disciplinary proceedings. What petitioner is really asking this Court to do is to undertake an unprecedented review of a lower court decision involving the interpretation and application of particular laws of a particular union and to establish new legal principles for all courts to follow in the future in reviewing union discipline cases.

Moreover, the new principles which petitioner thus seeks to establish would effectively bar every union in the country from protecting itself against communist infiltration. All that would be necessary would be for a sufficient number of communists to infiltrate a local and the union would be helpless to act. Nor is such a threat academic. The New York Supreme Court has recognized the danger to trade unions from communist infiltration to be so great as to give a union an inherent right of self protection. *Weinstock v. Ladisky*, 93 N.Y.S. 2d 85. The respondent Association would also be forced to retain in its ranks an individual with respect to which the record stands uncontradicted that he joined the Communist Party, actively participated in its work, and sought to recruit members of the union into its ranks.[7] It is respectfully submitted that the appellate tribunals of the Association had no choice but to take the action they did on the evidence before them and that they gave petitioner every reasonable opportunity to defend himself. The decision of the Court of Appeals affirming that fact is correct as to law and the result is equitable.

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[7] Petitioner seeks indirectly to avoid these facts by attacking the credibility of one witness with respect to relatively minor matters which played no part in the International President's decision. (Pet. 19)

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this petition for a writ of certiorari should be denied.

Respectfully submitted,

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